

# **TOWN OF SANDY CREEK ORDINANCES**

# Town of Sandy Creek

## Code of Ordinances

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COMPANY, L.P., ITS SUCCESSORS AND ASSIGNS,  
HEREINAFTER REFERRED TO AS "GRANTEE", FOR A TERM  
OF FIFTEEN (15) YEARS, THE RIGHTS, AUTHORITY,  
POWER AND FRANCHISE TO ESTABLISH, CONSTRUCT,  
ACQUIRE, MAINTAIN, AND OPERATE A COMMUNITY  
ANTENNA TELEVISION SYSTEM WITHIN THE TOWN OF  
SANDY CREEK, NORTH CAROLINA, TO RENDER, FURNISH,  
SELL, AND DISTRIBUTE TELEVISION, RADIO, AND  
ENTERTAINMENT PROGRAMS WITH SAID TOWN AND  
ENVIRONS THEREOF, AND TO USE AND OCCUPY THE  
STREETS, ALLEYS, EASEMENTS, AND OTHER PUBLIC  
PLACES OF SAID TOWN AS MAY BE NECESSARY TO  
CONSTRUCT SAID SYSTEM.

CHARTER  
PART 1  
CHAPTER 1

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION  
RATIFIED BILL

CHAPTER 1007  
HOUSE BILL 2270

AN ACT TO INCORPORATE THE TOWN OF SANDY CREEK; SUBJECT TO A  
REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. A charter is enacted for the Town of Sandy Creek to read:  
CHARTER FOR THE TOWN OF SANDY CREEK NORTH CAROLINA  
CHAPTER I INCORPORATION

Section 1.1. The Town of Sandy Creek, in the County of Brunswick, of the State of North Carolina is hereby incorporated to be known as the Town of Sandy Creek and is invested with all the powers, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

CHAPTER II BOUNDARIES

Section 2.1. Until modified in accordance with law, the boundaries of the Town are as follows:

Beginning at an Old Stone marking the northwestern corner of Parcel #6 (Tax Map #14) owned by N.C. Pulp Company (reference Deed Book 519 at Page 623 of the Brunswick County Registry; said Stone being located South 44 degrees 18 minutes 05 seconds East 959.15 feet from an Iron Pipe (found), such pipe being approximately 3 inches in diameter and marks the southwestern corner of Parcel #9 (Tax Map #14) conveyed to Tammy Maria Skipper and her guardian Betty M. Jackson by deed duly recorded in Deed Book 391 at Page 30 of the aforesaid registry; said pipe being in the northern right of way line (new R/W Line) of U.S. Highway 74-76 (allowing 187 feet in width as measured from northern line of the old abandoned Railroad to the new northern line of said Highway) (former width of Highway was 50 feet) and is located at the following N.C. Grid Coordinates:  $y=197,241.02$  and  $x=2,255,843.21$ ; said stone further being located in the southern right of way line of the formerly Atlantic Coastline Railroad (abandoned) (allowing 130 feet in width) as the same is shown on a map entitled, "Boundary Survey Map of Sandy Creek, N.C. (Proposed)", and is recorded in Map Book and/or Cabinet \_\_\_\_\_ at Page \_\_\_\_\_ of the aforesaid Registry, runs thence from the "Point of Beginning" as described with and along the north westerly line of Parcel #17 (reference Deed Book 606 at Page 418 of the Brunswick County Registry) owned by George D. Young, such line crosses the railroad right of way at a right angle, North 26 degrees 24 minutes East One Hundred Thirty and 0/10 feet to a point in the northern line of said railroad; runs thence with and along the northern line of said railroad South 63 degrees 36 minutes East 292.67 feet to a point in



said right of way; runs thence and leaving said railroad right of way and crossing the right of way of U.S. Highway 74-76 North 30 degrees 41 minutes 50 seconds East 187.52 feet to an Iron Road (found) in the northern right of way line (new) of said highway, such rod marks the new southwesterly corner of Parcel #12.02 (Tax Map #14) as owned by Wade C. Skipper and described in a deed recorded in Book 438 at Page 191 of the aforesaid registry; runs thence and continuing along Wade C. Skipper's westerly line North 30 degrees 41 minutes 50 seconds East Eight Hundred Ninety and 58/100 (890.58) feet to an old Stone (called for) marking the northwesterly corner of said Parcel #12.02; runs thence with and along the northern line of said parcel South 58 degrees 48 minutes 22 seconds East 535.59 feet to an old stone (called for); runs thence with and along Wade Skipper's northeasterly line South 14 degrees 50 minutes 30 seconds East 440 feet to a point at the northwesterly corner of Parcel #12.01 (Tax Map #14) owned by Samuel K. Caines, Jr. and described in a deed recorded in Book 682 at Page 629 of the aforesaid registry; runs thence with and along Caines' northern line South 56 degrees 40 minutes East 1044 feet, more or less, to an Old Stone (called for); runs thence with and along the southeastern line of Caines' Property South 26 degrees 36 minutes 25 seconds West 72.44 feet, more or less, to a point marking the northwesterly corner of parcel #35 (Tax Map #15) owned by Joseph Alonzo Moore, Jr. and described in that certain deed recorded in Book 172 at Page 247 of the aforesaid registry; runs thence with and along Moore's northerly line approximately South 63 degrees 36 minutes East 585 feet, more or less, to a point, his northeasterly corner; runs thence with and along Moore's southeasterly line approximately South 26 degrees 24 minutes West 453 feet to a point in the northerly right of way line (old) (allowing 50 feet in width) of said Highway 74-76, passing over said Highway's new right of way line (northerly) at a distance of 316 feet, more or less; runs thence and continuing same course (50) feet to a point in the southerly line of said Highway and the northerly right of way line of the hereinbefore mentioned railroad; runs thence with and along the northerly line of said railroad south 63 degrees 36 minutes East 1091.95 feet, more or less, to a point; runs thence and crossing said railroad right of way at a right angle South 26 degrees 24 minutes West One Hundred Thirty (130) feet to an Iron Stake (called for) in a pond, such marking the southern line of said railroad and the northeasterly corner of Sandy Creek acres East; runs thence and leaving said railroad and running with and along the line of Sandy Creek East South 26 degrees 11 minutes West 2477.51 feet to a Control Corner, the same being shown on the aforesaid map of Sandy Creek, N.C. (proposed); runs thence North 89 degrees 19 minutes West 925.0 feet, runs thence North 00 degrees 41 minutes East 325.0 feet to a point in the run of a Branch marking the common corner of Sandy Creek Acres East and Sandy Creek Acres as the same are shown on those maps duly recorded in Map Cabinet 'M' at Page 290 and Map Cabinet 'M' at Page 111 respectively; runs thence with and along the boundary lines of Sandy Creek Acres South 26 degrees 38 minutes 50 seconds West 983.0 feet; runs thence South 81 degrees 03 minutes 47 seconds West Five Hundred Twelve and 0/10 (512.0) feet; runs thence North 83 degrees 12 minutes 38 seconds West 562.0 feet; runs thence North 61 degrees 42 minutes 38 seconds West One Thousand Nine Hundred Ninety (1990) feet; runs thence South 68 degrees 27 minutes 22 seconds West 120.0 feet; runs thence North 29 degrees 48 minutes 47 seconds West 426.7 feet to a Stone (called for) marking the westerly most corner of said Sandy Creek Acres; runs thence North 30 degrees 58 minutes 47 seconds West 300.3 feet to a Stone (called for); runs thence North 03 degrees 01 minute 13 seconds West 1237.5 feet to

a Stone (called for) marking the westerly most corner of a Tract known at The Lee Tract owned by Rigel Paper Corp. (Map #12067-Riegel's Map filing system); runs thence North 83 degrees 56 minutes 13 seconds East 1182 feet, more or less, to a Stone (called for) marking the southwesterly corner of Parcel #6 (Tax Map #14) owned by N.C. Pulp Company; runs thence with and along the northwesterly line of said Pulp Company's North 37 degrees 30 minutes East 1585 feet, more or less, to the "point of Beginning", containing 425 acres, more or less, and being drawn (one the aforesaid map) and written from data obtained from deeds and maps as referenced on the face of said map of Sandy Creek, N.C. The foregoing description prepared in the office of Jerold W. Lewis, Registered Land Surveyor, N.C. Registration Number L-2589 on or about May 30, 1988 for Mr. Ernest Grainger, a duly authorized representative of Sandy Creek, N.C.

#### CHAPTER III GOVERNING BODY

Section 3.1. The governing body of the Town of Sandy Creek is the Council, which has five members.

Section 3.2. Manner of electing town officials. The qualified voters of the entire town elect the members of the council.

Section 3.3. Term of Office of Council Members. At the regular municipal election in 1989, the three candidates for Town Council receiving the highest number of votes shall be elected for a term of four years, and the two candidates receiving the next highest number of votes shall be elected for a term of two years. In the municipal election of 1991 and biannually thereafter, Town Council members shall be elected for a term of four years as their terms expire. Municipal elections for Sandy Creek shall be held in accordance with general law.

Section 3.4. Selection of Mayor. Term of office. The mayor shall be selected by the council from among its membership to serve at its pleasure. The mayor has the right to vote on all matters before the council, but has no right to break a tie vote in which he has participated.

#### CHAPTER IV ELECTIONS

Section 4.1. Town officials shall be elected on a non-partisan basis and the results determined by a plurality as provided in G.S. 163-292.

#### CHAPTER V ADMINISTRATION

Section 5.1. The Town of Sandy Creek will operate under the mayor-council plan as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

Section 5.2. Until the organizational meeting after the 1989 municipal election, Don Minnis, Harold Caffee, Donald Hamilton, Buddy Grainger, and Buddy Millinor shall serve as the Town Council.

Section 5.3. Interim budget. The Council may adopt a budget ordinance for the 1988-1989 fiscal year, following their qualification for office, without having to comply with the budget preparation and adoption timetable set out in the Local Government Budget and Fiscal Control Act. For the budget adopted for fiscal year 1988-89, property taxes may be paid at par within 90 days of adoption of the budget ordinance, and thereafter according to the schedule in G.S. 105-360 as if the taxes had been due on September 1, 1988.

Section 5.4. (a) The Brunswick County Board of Elections shall conduct an election on September 20, 1988, for the purpose of submission to the qualified voters of the area described in Section 2.1 of the Charter of Sandy Creek. Registration for the election shall be conducted in accordance with G.S. 163-288.2

Section 5.4. (b) In the election, the question on the ballot shall be:  
“( ) FOR Incorporation of Sandy Creek”  
“( ) AGAINST Incorporation of Sandy Creek”

Section 5.5. In such election, if a majority of the votes cast are not cast “FOR Incorporation of Sandy Creek”, then Sections 1 through 3 of this act shall have no force and effect.

Section 5.6. In such election, if a majority of the votes cast shall be cast “FOR Incorporation of Sandy Creek”, then Sections 1 through 3 of this act shall become effective on the date that the Brunswick County Board of Elections determines the result of the election.

Section 5.7. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 28<sup>th</sup> day of June, 1988.

ROBERT B. JORDAN III  
Robert B. Jordan III  
President of the Senate

LISTON B. RAMSEY  
Liston B. Ramsey  
Speaker of the House of

Representatives

## **RESOLUTION TO AMEND CHARTER**

### **TOWN OF SANDY CREEK, N.C.**

Whereas, the Town Charter of Sandy Creek, North Carolina was incorporated by the North Carolina General Assembly by House Bill 2270 in Chapter 1007 of the General Assembly of North Carolina 1987 Session; and

WHEREAS, General Statute 160A-101, allows any city to alter its form of government by adopting any one or combination of options prescribed by this statute;

BE IT, THEREFORE, RESOLVED that in accordance with North Carolina General Statute 160A-102, the Town Council of the Town of Sandy Creek, North Carolina hereby adopts this resolution of intent to amend its Charter and the amendment is hereinafter set out in detail:

### Section 3.4. Mayor and mayor pro tempore.

The mayor shall be elected by the qualified voters of the town beginning in the municipal election of 1993 and his term shall be two (2) years. In case of vacancy in the office of the mayor, the remaining members shall elect his successor for the unexpired term. The duties of the mayor shall be to preside at all meetings of the town council; to be the official head of the town for the service of process, for ceremonial purposes, and shall be so recognized by the governor of the state in connection with the military law; shall have power to administer oaths and take affidavits; shall sign all written contracts entered into by the council on behalf of the town and all other contracts and instruments executed by the town, which by law require the mayor's signature. All other contracts shall be made and signed by the mayor or the town manager. The mayor shall have the same power as other members of the council to vote upon any questions, or upon the appointment of officers, but he shall have no power to veto. The mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this charter, and by the ordinances of the town. At its organizational meeting the council shall elect one (1) of its members, mayor pro tempore, to preside in the absence of the mayor, and to act as mayor in the absence of or during the disability of the mayor. In the event of a vacancy in the office of mayor, the mayor pro tempore shall act as mayor until a mayor is elected by the council pursuant to this section of this article. The term of office of the mayor pro tempore shall be two (2) years.

ADOPTED, this 17<sup>th</sup> day of May, 1993.

/s/ Ernest E. Grainger  
Ernest E. Grainger, Mayor

Ernest E. Grainger, Mayor

ATTEST:

/s/ Etta J. Minnis  
Etta J. Minnis TOWN CLERK

Etta J. Minnis, TOWN CLERK

**PART II**  
**THE CODE OF ORDINANCES**

**Chapter 1**

**GENERAL PROVISIONS**

**Sec. 1-1. How Code designated and cited.**

The provisions in the following chapters and sections shall constitute and be designated "The Code of the Town of Sandy Creek, North Carolina," and may be so cited. Such Code may be cited as the "Sandy Creek Code."

State law reference – Code of ordinances, G.S. 160A-77; ordinance book, G.S. 160A-78; pleading and proving city ordinances, G.S. 160A-79; general ordinance-making power, G.S. 160A-174.

**Sec. 1-2. Definitions and rules of construction.**

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the town council or the content clearly requires otherwise:

**Charter.** The word Charter means and refers to the Charter of the Town of Sandy Creek printed in Part 1 of this Code.

**Code.** The word Code shall mean the Code of Ordinances of the town which is the "Code of the Town of Sandy Creek, North Carolina."

**Computation of time.** In computing any period of time prescribed or allowed by this Code, including rules respecting publication of notices, the day of the act, event, default, or publication after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation.

## SANDY CREEK CODE

A half holiday shall be considered as other days and not as a holiday.

**Council.** The words council or town council shall mean the town council or the governing body of the Town of Sandy Creek and shall be interchangeable with board of commissioners.

State law reference – Similar provisions, G.S. 160A-1(3).

**County.** The words the county shall mean the County of Brunswick, except as otherwise provided.

**Gender.** Words importing the masculine gender shall include the feminine and neuter.

**Joint authority.** All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

**Month.** The word month shall mean a calendar month.

**Number.** Words used in the singular include the plural and the plural includes the singular number.

**Oath.** The word oath shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words swear and sworn shall be equivalent to the words affirm and affirmed.

**Officers, departments, boards, etc.** Whenever reference is made to any officer, department, board, commission or other agent, agency or representative, such reference shall be construed as if followed by the words "of the Town of Sandy Creek."

**Official time standard.** Whenever certain hours are named in this Code, they shall mean eastern time or eastern daylight saving time, whichever may be in current use in the town.

**Or, and.** The word or may be read and, and the word and may be read or, where the sense requires it.

## GENERAL PROVISIONS

**Owner.** The word owner applied to building or land shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land.

**Person.** The word person shall include a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual and any other entity.

**Personal property** includes every species of property except real property, as herein defined.

**Preceding; following.** The words preceding and following shall mean next before and next after, respectively.

**Property.** The word property shall include real and personal property.

**Real property** shall include lands, tenements and hereditaments.

**Sidewalk.** The word sidewalk shall mean that portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians.

**Signature or subscription** includes a mark when the person cannot write.

**State** shall mean the State of North Carolina.

**Statute references.** "G.S." shall refer to the General Statutes of North Carolina, as amended.

**Street.** The word street shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge and the approaches thereto within the town.

**Tenant; occupant.** The words tenant or occupant, applied to a building or land, shall include any person who occupies the whole or a part of such building or land whether alone or with others.



## SANDY CREEK CODE

**Tense.** Words used in the past or present tense include the future as well as the past and present.

**Town.** The words town shall mean the Town of Sandy Creek, in the County of Brunswick and State of North Carolina, except as otherwise provided.

**Writing.** The words writing and written shall include printing and any other mode of representing words and letters.

**Year.** The word year, except where fiscal year is specifically referred to, shall mean a calendar year.

State law references – Construction of statutes, G.S. 12-3; computation of time, G.S. 1-593, 1A-1, Rule 6(a), 159-2; citation of General Statutes, G.S. 164-1.

### **Sec. 1-3. History notes.**

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in this section.

### **Sec. 1-4. References.**

The editor's notes and state law references appearing in the Code are merely information to assist the user of the Code and are of no legal effect.

### **Sec. 1-5 Catchlines of sections.**

The catchlines of the several sections of this Code printed in bold fact type are intended as mere catchwords to indicate the contents of the sections, and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly provided shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

State law reference – Construction of amended statute, G.S. 12-4.

## **GENERAL PROVISIONS**

### **Sec. 1-6. Provisions considered as continuations of existing ordinances.**

The provisions appearing in this Code, so far as they are the same as those of the 1989 Code and all ordinances adopted subsequent to the 1989 Code and included herein, shall be considered as continuations thereof and not as new enactments.

### **Sec. 1-7. Additions and amendments deemed incorporated in Code.**

Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the town to make the same a part thereof, shall be deemed to be incorporated herein, so that reference to the Code shall be understood and intended to include such additions and amendments.

### **Sec. 1-8. Code does not affect prior offenses, rights, etc.**

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, before the effective date of this Code.

### **Sec. 1-9. Effect of repeal of ordinance.**

- (a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.
- (b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

### **Sec. 1-10. Certain ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not consistent with this Code:

## SANDY CREEK CODE

- (1) Any ordinance, promising or guaranteeing the payment of money by the town, or authorizing the issuance of any bonds of the town's indebtedness, or any contract, agreement, lease, deed or other instrument or obligation assumed by the town or creating interest and sinking funds;
- (2) Any right or franchise, permit, or other right granted by any ordinances;
- (3) Any personnel regulations; any ordinance establishing salaries of town officers and employees or civil service rules;
- (4) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, or vacating any street, alley or other public way in the town;
- (5) Any ordinance establishing and prescribing the street grades in the town;
- (6) Any appropriation ordinance or any ordinance levying or imposing taxes;
- (7) Any ordinance providing for local improvements and assessing taxes therefore;
- (8) Any ordinance dedicating or accepting any plat or subdivision in the town;
- (9) Any ordinance establishing the official plat of the town;
- (10) Any zoning map amendment or land use, rezoning or zoning ordinance;
- (11) Any ordinance annexing territory or excluding territory from the town;
- (12) Any ordinance prescribing traffic regulations for specific location, prescribing through streets, parking limitations, parking prohibitions, one-way traffic, limitations on loads of vehicles or loading zones, not inconsistent with such codes;
- (13) Any subdivision ordinance;
- (14) Any ordinance creating special districts;
- (15) Any ordinance prescribing rates, fees or charges;
- (16) Any ordinance calling a municipal election; and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as is set out at length herein.

State law reference – Authority of town to omit designated classes of ordinances from Code, G.S. 160A-77.

### **Sec. 1-11. Amendments to Code.**

- (a) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code. Such amendments may be in the following language: "That section \_\_\_\_\_ of the Code of the Town of Sandy Creek, North Carolina or the Sandy Creek Town Code, is hereby amended to read as follows: ..." The new provisions may then be set out in the full as desired.
- (b) If a chapter, article or section not heretofore existing in this Code is to be added, the following language may be used: "That the Code of the Town of Sandy Creek, North Carolina (or the Town Code), is hereby amended by adding a (chapter, article or section) to be numbered \_\_\_\_\_ which (chapter, article or section) reads as follows ..." The new chapter, article or section may then be set out in full as desired.
- (c) All sections, articles, chapters or provisions of this Code desired to be repeated shall be specially repealed by section, article or chapter number, as the case may be.
- (d) In addition to such indications as may be contained in the text of a proposed ordinance, the amendment addition or repealer shall be shown in concise form above the ordinance.

### **Sec. 1-12. Supplementation of Code.**

- (a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the town council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the council during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of this Code which have been repealed shall be excluded from reprinted pages.

## SANDY CREEK CODE

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- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in ordinances and parts or ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

- (1) Organize the ordinance material into the appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings, and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivisions numbers;
- (4) Change the words "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code);
- (5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

State law reference – Authority of town to provide for loose-leaf supplementation of Code, G.S. 160A-77.

### Sec. 1-13. Severability of parts of Code.

It is hereby declared to be the intention of the council that the sections, paragraphs, sentences, clauses, and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdictions, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

## GENERAL PROVISIONS

### **Sec. 1-14. General penalty; continuing violations.**

- (a) Wherever in this Code or in any ordinance of the town or any rule or regulation of any officer or agency of the town, under authority duly vested in him or it, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in such Code, ordinance or rule or regulation the doing of any act is declared to be unlawful or an offense or misdemeanor, where no specific penalty is provided therefore, the violation of any such provision of this Code or any such ordinance or rule or regulation except as provided in (b) below, shall be punished as provided in G.S. Section 14-4 for each separate violation.
- (b) Any person violating an ordinance regulating the operation or parking of vehicles shall be responsible for an infraction and shall be required to pay a penalty of not more than fifty dollars (\$50.00).
- (c) Each day any violation of this Code or of any ordinance or rule or regulation shall continue shall constitute a separate offense, except as may be otherwise specifically provided.

State law reference – Penalties, G.S. 14-4; enforcement of ordinances, G.S. 160A-175.

#### **Sec. 1-15. Civil Citations.**

Wherever in this Code or in any ordinance of the town or any rule or regulation of any officer or agency of the town, under authority duly vested in him or it, any act is prohibited or is made or declared to be unlawful or any offense wherever in such Code, ordinance, rule or regulation the doing of any act is required or the failure to any is declared to be unlawful or an offense where a civil penalty is provided; then and in that event, any such violation shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) by the issuance of a civil citation which must be paid within seventy-two (72) hours after the receipt of same and each day of any such violation continues shall constitute a separate offense for which a civil citation may be issued.

**ORDINANCE AMENDING THE CHAPTERS 2, 5, 15, 19 AND 21 OF THE CODE OF  
ORDINANCES FOR THE TOWN OF SANDY CREEK, NORTH CAROLINA**

**LEGISLATIVE INTENT/PURPOSE:**

**THAT WHEREAS**, the Town has enacted a set of development regulations that control land development and construction within the Town's incorporated area; and

**WHEREAS**, in order to promote the public health, safety and general welfare and to promote the best interests of the Town and community, it is necessary from time to time for the Planning Board and Town Council to consider appropriate revisions, modifications and updates to the Town's Building Regulations; and

**WHEREAS**, the Town Council charged the Planning Board with the responsibility of reviewing, and updating the Town's development regulations; and

**WHEREAS**, the Planning Board, with the assistance of Cape Fear Council of Governments, has drafted an update to the development regulations; and

**WHEREAS**, the Planning Board hereby finds that the proposed update of the Town's UDO (i) is consistent with Section 6, Municipal Plans for Sandy Creek outlined in the *Blueprint Brunswick 2040* Comprehensive Plan Town's 2016 Land Use Plan, and policy 2 which states "Update the zoning ordinance to help manage growth" and (ii) that it is in the public interest because it will advance the public health, safety, and/or welfare of the Town of Sandy Creek through updated statutory procedures and requirements for development within the Town's planning jurisdiction; and

**WHEREAS**, pursuant to N. C. General Statutes and Town ordinances, a public hearing, properly noticed, was held on August 5, 2024, where public comment was heard and considered by the Town Council regarding this issue; and

**WHEREAS**, the Town Council hereby finds that the proposed update of the Town's UDO (i) is consistent with Section 6, Municipal Plans for Sandy Creek outlined in



# **Administration**

## **ORDINANCE 88-5**

### **CHAPTER 2**

#### **ADMINISTRATION\***

- Art. I        In General, 2.1-2.15**
- Art. II       Town Council, 2.16-2.30**
- Art. III      Boards, Commissions, 2.31-2.70**
  - Div. 1. Generally 2.31-2.40
  - Div. 2. Planning and Zoning Commission, 2.41-2.70
- Art. IV       Officers and Employees 2.71-2.160**
  - Div. 1. Generally 2.71-2.90
  - Div. 2. Town Attorney 2.91-2.105
  - Div. 3. Town Clerk 2.106-2.120
  - Div. 4. Town Treasurer 2.121-2.140
  - Div. 5. Director of Public Works 2.141-2.160
- Art. V        Town Property 2.161-2.164**

#### **ARTICLE I IN GENERAL**

##### **Sec. 2.1 Town seal.**

The seal of the town shall be of circular shape and is described as follows: encircling the border are the words Town of Sandy Creek, State of North Carolina, Incorporated.

\*Cross reference – Alcoholic beverages, Ch. 3; animals, Ch. 4; garbage and trash, Ch. 7; licenses and business regulations, Ch. 8; nuisances, Ch. 11; Taxation, Ch. 16; utilities, Ch. 17; zoning, Ch. 18

State law references – cities and towns, G.S. Ch. 160A; local government finance, G.S. Ch. 159; elections, G.S. Ch. 163; local development, G.S. Ch. 158; administrative offices, G.S. 160A-146 et seq.

##### **Sec. 2-2. Custodian of town seal.**

The town clerk shall have custody of the seal of the Town, and the same shall be carefully preserved and kept at all times at the town hall.

Cross reference – Town clerk, 2-106 et seq.

##### **Secs. 2-3 – 2-15. Reserved.**

## **Administration**

### **ARTICLE II TOWN COUNCIL\***

**Secs. 2-16 – 2-29. Reserved.**

#### **Sec. 2-30. Town Council Conflicts of Interest**

A town council member shall not vote on any legislative decision regarding a development regulation adopted pursuant to G.S. 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A town council member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

For the purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

\*Cross reference – Town clerk to attend meetings of town council, 2-106 et seq.

### **ARTICLE III BOARDS, COMMISSIONS, COMMITTEES\*\***

#### **DIVISION 1. GENERALLY**

**Secs. 2-31 – 2-39. Reserved.**

#### **Sec. 2-40. Appointed Board Conflicts of Interest**

Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to G.S. 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

For the purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

\*\*Cross reference – Board of adjustment 19-41 et seq.

#### **DIVISION 2. PLANNING AND ZONING COMMISSION\*\*\***

## Administration

### Sec. 2-41. Composition; terms of office.

The planning and zoning commission shall consist of three (3) members who shall be citizens and residents of the town and one alternate shall be a resident of Sandy Creek. The commission members shall hold no other public office under the town government and shall be appointed by the town council.

\*\*\*Cross references – Subdivision, Ch. 15, Zoning, Ch. 19

State law references – Planning and development regulation jurisdiction, G.S. 160D-201 et seq; planning boards, G.S. 160D-301.

### Sec. 2-42. Terms, removal; filling of vacancies.

- (a) The members of the planning and zoning commission shall be appointed for terms of two (2) years.
- (b) The members of the commission may after a public hearing, be removed by the appointing authority for inefficiency, neglect of duty or malfeasance in office.
- (c) Vacancies occurring for reasons other than expiration of term shall be filled as they occur for the period of the unexpired term.
- (d) Faithful attendance at the meetings of the commission is considered a prerequisite for the maintenance of membership on the commission. The three (3) commission members shall have equal voting powers on all matters which come before the commission.

### Sec. 2-43. Extraterritorial jurisdiction.

- (a) The planning and zoning commission may exercise extraterritorial jurisdiction in accordance with the provisions of the General Statutes of North Carolina.
- (b) The Town shall notify the owners of any parcels of land proposed for addition to the extraterritorial jurisdiction, as shown on the county tax records. The notice shall be sent by first-class mail to the last addresses listed for affected property owners in the county tax records. The notice shall inform the landowner of the effect of the extension of extraterritorial jurisdiction, of the landowner's right to participate in a legislative hearing prior to adoption of any ordinance extending the area of extraterritorial jurisdiction, as provided in G.S. 160D-601, and of the right of all residents of the area to apply to the board of county commissioners to serve as a representative on the planning board and the board of adjustment, as provided in G.S. 160D-303. The notice shall be mailed at least 30 days prior to the date of the hearing, to be held by the Town Council. The person or persons mailing the notices shall certify to the city council that the notices were sent by first-class mail, and the certificate shall be deemed conclusive in the absence of fraud.

Editor's note – The extraterritorial jurisdiction of the city is from one mile radius as depicted on the official zoning map of the Town of Sandy Creek, North Carolina.

## Administration

### Sec. 2-44. Organization; meetings; quorum.

- (a) The planning and zoning commission as soon as practicable after the annual appointment shall meet and organize by electing one (1) of its members chairman, and shall elect a vice-chairman and secretary who may be a member of such commission. The term of chairman and other officers shall be one (1) year with eligibility for re-election.
- (b) The commission shall meet at least once each month. Regular meetings shall be open to the public. The commission shall adopt rules for transaction of its business and shall keep a record of its member's attendance and of its resolution discussions, findings, and recommendations, which record shall be a public record.

**Sec. 2-45. Virtual meeting attendance**

(a) Notices of meetings subject to this section shall include information regarding how and where the public may listen to the meeting.

(b) Committee meetings. Council members may attend committee meetings by telephone or other electronic means when they are unable to attend in person. Members who plan to attend by electronic means shall notify Town staff in advance to allow for arrangements to be made. Members attending electronically are entitled to vote and fully participate in the business of the committee meeting. Attendance virtually shall be limited to 3 times per calendar year.

(c) Council meetings. Council members may attend Council meetings by telephone or other electronic means. Members who plan to attend by electronic means shall notify Town staff in advance to allow for arrangements to be made. Members attending electronically are entitled to vote and fully participate in the business of the council meeting. Attendance virtually shall be limited to 3 times per calendar year.

(d) Nothing in this section shall prevent public bodies from meeting in Closed Session for an appropriate purpose

## Administration

### Sec. 2-48. Powers and duties generally.

It shall be the duty of the planning and zoning commission:

- (1) To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in these conditions;
- (2) To assist in the preparation and revision of a comprehensive and coordinated plan for the physical development of the area;
- (3) To establish principles and policies for guiding action in the development of the area;
- (4) To prepare and recommend to the town council ordinances promoting orderly development along the lines indicated in the comprehensive plan;
- (5) To determine whether specific proposed developments plan for the orderly growth and improvement of the area;
- (6) To review and comment on proposed amendments to the zoning map or zoning ordinance, adopting a comment on the consistency of the proposal with any adopted plan;
- (7) To keep the town council and the general public informed and advised as to these matters;
- (8) To perform any other duties which may lawfully be assigned to it.

### Sec. 2-49. Basic and special studies.

- (a) As background for its comprehensive plan and any ordinances it may prepare, the planning and zoning commission may gather maps and aerial photographs of manmade and natural physical features of the area, statistics on past trends and present conditions with respect of population, property values, the economic bases of the community, land use, and such other information as is important or likely to be important in determining the amount, direction, and kind of development to be expected in the area and its various parts.
- (b) In addition, the commission may make, cause to be made, or obtain special studies on the location and adequacy of specific facilities, and condition, which may include, but are not limited to, studies of housing, commercial and industrial facilities,

## Administration

schools, parks, playgrounds, recreational facilities, public and private utilities, and traffic, transportation, and parking facilities.

- (c) All town officials shall, upon request, furnish to the commission such available records or information as it may require in its work. The commission or its agency may, in the performance of its official duties, enter upon lands and make examinations of surveys and maintain necessary monuments thereon as otherwise legally permitted.

### **Sec. 2-50. Comprehensive plan.**

- (a) The comprehensive plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the planning and zoning commission's recommendation to the town council for the development of such territory, including, among other things, the general location, character and extent of streets, bridges, boulevards, parkways, grounds, and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication power and other purposes; also, the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, buildings, grounds, open spaces, property, utilities or terminals.
- (b) The plan and any ordinances or other measures to effectuate it shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the town and environs which will, in accordance with present and future needs, best promote health, safety, morals, and the general welfare, as well as efficiency and economy in the process of development, including among other things, adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public services and other public requirements.
- (c) The plan shall be adopted by the governing board with the advice and consultation of the planning and zoning commission. Adoption and amendment of the comprehensive plan shall follow the public hearing process for zoning amendments found in Ch. 19-61 et seq of the Town of Sandy Creek Code of Ordinances.

**Cross reference – Zoning, Ch. 19.**

### **Sec. 2.51. Designated as zoning commission; preparation and submission of zoning ordinance for adoption.**

- (a) The planning and zoning commission is hereby designated as the zoning commission for the town and its environs. It shall prepare and submit to the town council for its consideration and possible adoption a zoning ordinance for the control of the height, area, bulk, location, and use of buildings and premises in the area, in accordance with the

## **Administration**

provisions of the G.S. section 160D-702 et seq. Such proposed zoning ordinance, when adopted by the town council, will supplant the zoning ordinance and amendments now in effect.

(b) The commission may initiate, from time to time, proposals for amendment of the zoning ordinance, based upon its studies and comprehensive plan. In addition, it shall review and make recommendations to the town council concerning all proposed amendments to the zoning ordinance.

### **Sec. 2-52. Preparation and submission to subdivision ordinance.**

The planning and zoning commission shall prepare and submit to the town council for its consideration and possible adoption reasonable rules and regulations governing streets and street locations, plans for new subdivisions, plats for resubdivision, size of lots, property lines, placing of houses on lots, width of streets and all other rules or regulations pertaining to subdivisions and in accordance with the provisions of G.S. section 160D-801 et seq.

### **Sec. 2-53. Recommendations relative to public facilities.**

The planning and zoning commission shall review and report as recommendations to the town council upon the extent, location, and design of all public structures and facilities, on the acquisition and disposal of public properties, on the establishment of building lines, mapped street lines and proposals to change existing street lines. In the absence of a recommendation from the commission, the town council may, if it deems wise, after the expiration of thirty (30) days from the date on which the question has been submitted in writing to the planning and zoning commission for review and recommendation, take final action.

### **Sec. 2-54. Street naming.**

The planning and zoning commission may recommend to the town council names for streets not heretofore named, may approve or reject names proposed by owners of additions or developments, may recommend changes of names of streets where names are found to be duplicated and may recommend changing the designation of streets where misapplications are found to exist.

Cross reference – Streets, sidewalks, and other public places, Ch. 14.

### **Sec. 2-55. Submission recommendations, etc.**

All acts, findings, decisions, and determinations of the planning and zoning commission shall be submitted in the form of recommendations to the town council and such recommendations, when approved by the town council, shall have the force and effect of ordinances.



## **Administration**

### **Sec. 2-56. Advisory council; special committees.**

(a) The planning and zoning commission may seek the establishment of and official advisory council and may cooperate with this council to the end that its investigations and plans may receive fullest consideration, but the commission may not delegate to such advisory council any of its official prerogatives.

(b) The commission may set up special committees to assist it in the study of specific questions and problems.

### **Sec. 2-57 – 2-70. Reserved.**

## **ADMINISTRATION**

### **ARTICLE IV. OFFICERS AND EMPLOYEES\***

#### **DIVISION 1 GENERALLY**

### **Sec. 2-71. Personnel policy manual. Reserved**

### **Sec. 2-72. Oath of office.**

Every person, elected or appointed to an office from whom an oath before a proper officer is required to be made and subscribed, shall make and subscribe such oath before entering upon the duties of such office.

Constitution law reference – oath of office, art VI, SS7, State Constitution.

State law reference – Oath, G.S. 160A-61.

### **Sec. 2-73. Absence from office.**

No officer or department head of the town shall at any time leave his duties or be absent from his place or office without the consent of the town council.

### **Sec. 2-74. Inspection of books and papers.**

Every officer shall, at all times, when requested, submit the books and papers of his office to the inspection of the town council.

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\*Cross references – Building commissioner, 5-26; building inspectors, 5-41; fire department, 6-16; police department; 13-16; police auxiliary unit, 13-31 et seq.

State law references – Public officers, G.S. 128-1 et seq.; personnel, G.S. 160A-162 et seq.; city clerk, G.S. 160A-171; deputy city clerk, G.S. 160A-172; city attorney, G.S. 160A-173; law enforcement, G.S. 160A-281 et seq.; fire protection, G.S. 160A-191 et seq.; conflict of interest, G.S. 14-234; private use of publicly owned vehicles, G.S. 14-247 – 14-252.

**Sec. 2-75. Bonds**

No person appointed or elected to an office, from whom a bond is required and the amount thereof fixed at the time of his election or appointment, shall perform the duties of his office until such bond, satisfactory to the town council, and has been given.

State law reference – Bonds, G.S. ss109-1 et seq.; citizens to recover funds to town retained by delinquent official, G.S. ss128-10.

**Sec. 2-76. Amount and conditions of bond; approval.**

All official bonds required from officers shall be in such amounts as may be determined by the town council. All bonds shall be made to the town, and conditioned, when not otherwise prescribed, for the faithful performance by the officer of all acts and duties required of him in his office by any law of the state or ordinance of the town existing at the date of the bond, or subsequently passed, he will promptly pay over all moneys that belong to the town. Such bond shall be approved by the town council. Such bonds, before being approved or accepted by the town council, shall be presented to the town attorney for his approval of the form and execution. If such approval be written thereon, the same shall be presented to the town council for its approval or disapproval of the security offered.

**Sec. 2-77. Power to require; additional security.**

The town council may, when the public interest requires it, require a bond from any person elected or appointed to an office. When at any time the town council shall find that any bond previously accepted and approved has become impaired or doubtful in value, or is inadequate, or that additional security or bonds should be required from any officer, it shall cause such officer to be notified, and such officer shall within thirty (30) days procure such security or additional security, or give such bonds satisfactory to the town council. In default thereof, the office of such officer shall be regarded as vacant.

**Sec. 2-78. Staff Conflicts of Interest.**

No staff member shall make a final decision on an administrative decision required by G.S. 160D if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as designated by town council.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under G.S. 160D unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the Town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town Council.

## Administration

For the purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

**Secs. 2-79 – 2-90. Reserved.**

### DIVISION 2. TOWN ATTORNEY\*

#### **Sec. 2-91. Attendance of council at council meetings.**

The town attorney shall be required to attend all regular meetings of the town council and all special meetings when notified.

#### **Sec. 2-92. Duties.**

The town attorney shall advise the town council on all legal questions which may be submitted to him. He shall approve or draft contracts, ordinances, and other papers of a legal nature pertaining to the affairs of the town. He shall prepare for and litigate all matters pending in the superior court or elsewhere in which the town may be a party. He shall render such other legal service to the town council as may be demanded of him.

#### **Sec. 2-93. Compensation.**

The town attorney's compensation for service rendered shall be an amount for specific services as agreed upon by the town council.

**Sec. 2-94 – 2-105. Reserved.**

### DIVISION 3. TOWN CLERK\*\*

The town clerk shall be required to attend all town council meetings. The town clerk shall take, transcribe, and have custody of the minutes and perform all other duties prescribed by the town council.

(Code 1973, ss2-16)

Cross reference – Town council, ss2-16 et seq.

\*Charter references – Town attorney to be under the direction of the commissioner of finance, ss 6; all contracts and ordinances and resolutions making contracts shall be drawn or approved by the town attorney, ss10.

State law references – City attorney appointed by council, G.S. ss160A-173.

\*\*Cross references – Town clerk to be custodian of the town seal, ss2-2; building permit fees, ss5-62; collection schedules for garbage and refuse are on file in the town clerk's office, ss7-17; cost of abatement of nuisances by the city are on file in the town clerk's office, ss11-18.

State law references – City clerk, duties, G.S. ss160A-171; deputy clerk, G.S. ss160A-172.

## Administration

SS 2-106

Sec. 2-107 – 2-120. Reserved.

### DIVISION 4. TOWN TREASURER\*

Sec. 2-121. Receipt, etc., of moneys and securities.

The town treasurer, in addition to the other duties required of him by the provisions of this code and other ordinances of the town, shall receive and safely keep for the use of the town all money and securities belonging to the town.

Sec. 2-122. Receipts for money paid into treasury.

The town treasurer shall deliver or cause to be delivered to every person paying money into the treasury proper receipts specifying the date of payment, accounts paid and whether paid in money or otherwise.

Sec. 2-123. Disbursement of town funds by warrant.

The town treasurer shall disburse or cause to be disbursed the funds of the town according to such warrants drawn in compliance with the law, the provisions of this Code and other ordinances of the town.

Sec. 2-124. Registration, etc., of redeemed warrants.

The town treasurer shall keep or cause to be kept a register of all warrants redeemed or paid into the treasury, describing each warrant by date, amount, number, and the name of the payee, and specifying the time of receipt, from whom received and the account. The town treasurer shall see that all such warrants are properly cancelled and filed.

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\*Cross references – Building permit fees, ss5-62; charges and billing for collection of garbage and trash, ss7-66 et seq.; water and sewage rates, charges and billing procedures, ss17—121 et seq.

State law references – Fiscal control, G.S. ss159-1 et seq.; finance officers, G.S. ss159-24 – 159-38; duties of finance officers, G.S. ss159-24, 159-25.

Sec. 2-125. Accounts of separate funds, etc.

The town treasurer shall keep a separate account of each fund or appropriation and the debts and credits.

Sec. 2-126. Account of receipts and disbursements.

The town treasurer shall keep in such books as shall be provided for the purpose a fair and correct account of all money received and disbursed and the account received and disbursed.

## **Administration**

### **Sec. 2-127. Reports.**

The town treasurer shall make such reports as required by law, the provisions of this Code or other ordinances of the town.

### **Sec. 2-128. Additional duties.**

The town treasurer shall, in addition to the duties imposed upon him by the provisions of this Code and other ordinances of the town, perform all other duties required of him by the town council or imposed by law.

### **Sec. 2-129 – 2-140. Reserved.**

## **DIVISION 5. DIRECTOR OF PUBLIC WORKS\***

### **Sec. 2-141. Qualifications and duties. Reserved.**

### **Sec. 2-142 – 2-160. Reserved.**

## **ARTICLE V. TOWN PROPERTY\***

### **Sec. 2-161. Surplus property.**

The town clerk is hereby authorized, pursuant to G.S. 160A-266(c), to dispose of any such surplus personal property owned by the town whenever the town clerk determines that:

- (1) The item or group of items has a fair market value of less than five hundred dollars (\$500.00)
- (2) The property is no longer necessary for the conduct of public business; and
- (3) Sound property management principles and financial considerations indicate that the interest of the town would best be served by disposing of the property.

State law references – Sale and disposition of property, G.S. ss160A-265 et. Seq.; Method of sale of personal property authorized, G.S. ss160A-266(c).

### **Sec. 2-162. Disposal of surplus property.**

The town clerk may dispose of any such personal property by any means which the clerk judges reasonably calculated to yield the highest attainable sale price in money or other considerations, including but not limited to the methods of sale provided in G.S. article 12, chapter 160A. Such sale may be public or private, and with or without notice and minimum waiting period.

**Sec. 2-163. Sale of surplus property.**

The surplus property shall be sold to the party who tenders the highest offer, or exchanged for any property or services useful to the town if greater value may be obtained in that manner. The town clerk is hereby authorized to execute and deliver any applicable title documents. If no offers are received within a reasonable time, the town clerk may retain the property, obtain any reasonably available salvage value, or cause it to be disposed of as waste material. No surplus property may be donated to any individual or organization except by resolution of the town council.

**Sec. 2-164. Reports on surplus property.**

The town clerk shall, on or before the first day of February, report in writing to the town council on any property disposed of under these provisions from July 1 through December 31 of the previous year. The town clerk shall, on or before the first day of August, report in writing to the town council on any property disposed of under these provisions from January 1 through June 30 of that year. The written report shall generally describe the property sold or exchanges, to whom it was sold, or with who exchanged, and the amount of money other consideration received for each sale or exchange since the last such report was submitted.

## **Chapter 4**

### **ANIMALS**

#### **ARTICLE I. IN GENERAL**

##### **Sec. 4-1. Protection of birds – Town declared bird sanctuary.**

The territory embraced within the corporation limits of the Town is hereby declared to be a bird sanctuary.

(Code 1988)

**State law reference** – Authorizing municipality to create and establish a bird sanctuary within territorial limits of municipally, G.S. 160A-188.

##### **Sec. 4-2. Same-Killing or; injuring birds.**

It shall be unlawful for any person to hunt, kill, maim, injure, or trap any birds in the Town, or to destroy, rob, or molest the eggs or nest and breeding places of any birds within the Town. This section shall not be construed to protect any bird classified as predatory by the Wildlife Resources Commission or by the General Statutes of North Carolina or to protect Pigeons, Crows, Starlings, or English Sparrows.

(Code 1988)

**State law reference** – Hunting, killing, or trapping birds in municipality which has created and established a bird sanctuary prohibited, G.S. 160A-88.

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\*Editors note – The town has contracted with the county to provide animal control in the town pursuant to that agreement.

State reference – Dogs, G.S. Ch. 67; livestock running at large, G.S. 14-366, 68-16; municipal regulation of animals, G.S. 160A-182, 160A-186 et seq.; protection of animals, G.S. Ch. 19A; animal taxes, G.S. 160A-212; animal shelters, G.S. 160A-493; agriculture, G.S. Ch. 106; rabies, G.S. 130A-184 et seq.; cruelty to animals, G.S. 14-360 et seq.

#### **Sec. 4-3. Destruction of animals with incurable ailment.**

- (a) Any domestic or wild animals found on the street of the town or in public place or any yard of property within the town suffering from some disease, injury or other ailment the owner of which is unknown or any animal abandoned by its owner and the police department of the town is of the opinion that the disease, injury, or ailment is incurable and such animal is suffering from the effects thereof shall be destroyed and the remains removed.

#### **Sec. 4-4. Certain domestic fowl, hogs, horses, and cows prohibited.**

- (a) It shall be unlawful for any person to possess and keep any chickens or tame or domestic fowls of whatever description to be upon the person's premises or to run at large within the town.
- (b) It shall be unlawful for any person to possess and have within the town limits any pigs, cows, or horses upon their property for the purpose of keeping such animals. Exception: If any individual has a three (3) acre tract of land, he may keep a horse provided the land is used for this purpose only.

**(Code 1988)**

State law reference – Regulation of domestic animals authorized, G.S. 160A-186.

#### **Sec. 4-5. Pigeon Control.**

- (a) Owners of pigeons allowing their pigeons to roost or linger on the property or buildings of others poses a health hazard in addition to offending aesthetic senses by pigeon contamination. Such lingering or roosting is declared to be a public nuisance.
- (b) Whenever a verified complaint of a least two citizens is presented to the police department, alleging that a person is allowing pigeons to linger upon the property of the complainants, the police department shall inform the owner of such pigeons that said petition has been received and failure to correct the situation within 48 hours, the police department shall cite the owner of the pigeons for the violation alleged in said petition.

#### **Sec. 4-6. Keeping Birds.**

- (a) It shall be unlawful for any person to erect, place, maintain, or continue any pen, coop, yard, or other building upon any lot or ground in the town for the purpose of confining or housing any birds unless the same is at least fifty feet from the sides, back, and front lot lines and unless the floor of such building or coop is constructed of such material and in such a manner that it can be keep clean and sanitary at all times, and unless the location of such shall be authorized by the building inspector.



This Section is being adopted and will replace Section 4-6 currently entitled "Keeping Birds"

**Sec. 4-6. Poultry.**

No person may keep within the town any poultry except in accordance with a permit issued pursuant to this section.

(a) *Definitions.* For the purposes of this section, the following words shall have the indicated meaning, in addition to their meanings in normal usage:

(1) *Poultry* means live chickens, doves, ducks, geese, grouse, guinea fowl, partridges, pea fowl, pheasants, pigeons, quail, swans, or turkeys other than chicks or poults.

(3) *Lot* means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as herein required.

(b) *Permits for poultry.*

(1) It shall be unlawful for the owner or keeper of poultry to permit such an animal to be or run at large within the town.

(2) No person may keep within the town any poultry except in accordance with a permit issued pursuant to this section by the Town of Sandy Creek's enforcement officer.

(3) It shall be unlawful to keep roosters, geese, ducks, doves, grouse, guinea fowl, partridges, pea fowl, pheasants, quail, swans, or turkeys within the town.

(4) No permit shall be issued to keep or maintain poultry in the town unless the poultry will be on a lot of land maintained as follows:

- a. Poultry shall only be permitted in single family residential zoning districts;
- b. The lot shall consist of at least fifteen thousand (15,000) square feet under single ownership or control;
- c. Such poultry must be contained in a secure fenced enclosure at all times;
- d. The enclosure shall have a minimum of ten (10) square feet of area for each poultry;
- e. No enclosure shall be erected or maintained within the front or side yard (as defined by the zoning ordinance), within ten (10) feet of any property line or within twenty-five (25) feet of another residence;
- f. The enclosure shall be kept clean, sanitary and free from accumulations of excrement and objectionable odor; and

(c) *Violations.*

Any violations of these sections will subject the offender to a civil penalty in the amount of \$50.00 by the issuance of a civil citation which must be paid within seventy-two (72) hours after receipt of same and each day any such violation continues shall constitute a separate offense for which a civil citation may be issued by the Town of Sandy Creek's enforcement officer.

Sec. 4-7 – 4-15. Reserved.

ORDINANCE

That the Code of the Town of Sandy Creek is hereby amended by the deletion of Section 4-16 and it is hereby amended to read as follows:

Article 11. Animals

Sec. 4-16. Vaccination, Collars and Tags, Restraint.

It shall be the duty of every owner or keeper of a dog or cat over four (4) months of age to have the animal vaccinated against rabies pursuant to N.C.G.S. 130A-185 and it shall be the duty of every owner or keeper of a dog or cat to see that the animal is wearing a collar with a current vaccination tag when the animal is off the owner's property and it shall be the duty of the owner or keeper of a dog to have such animal under restraint at all times and shall keep such dog exclusively upon the owner's premises provided, however, that such dog may be off of the owner's premises if it is under the control of a competent person and restrained by a chain or leash.

Adopted this the 14<sup>th</sup> day of April, 2003.

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Robert B. Cruse, Mayor

Attest:

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Town Clerk

This Section is being adopted and will replace Sections 4-16 "Running at large prohibited."

#### **Sec. 4-16. Dogs within the Town of Sandy Creek.**

(a) It shall be unlawful for a person owning or having the custody of any dog to willfully permit or allow such dog to run at large in the town, except when accompanied or controlled by the owner or custodian. It shall be unlawful for a dog to be on the premises of a person other than the owner or custodian of such dog unless the owner of the premises has agreed to let the dog upon his premises. Any dog found running at large with or without the consent or knowledge of the owner or custodian may be impounded.

(b) No person may maintain a kennel within the Town of Sandy Creek except in accordance with a permit issued pursuant to this section by the Town of Sandy Creek's enforcement officer.

*Definitions.* For the purposes of this section, the following words shall have the indicated meanings, in addition to their meanings in normal usage:

(1) *Kennel* means A place where five (5) or more dogs over four (4) months of age are kept or maintained by the owner or occupant of the property, whether or not for compensation and whether or not the dogs are owned by the operator of the kennel. This definition shall not include animal shelters, kennels, and pet shops that possess licenses or certificates issued by the Animal Welfare Section of the Animal Health Division of the North Carolina Department of Agriculture pursuant to the provisions of the Animal Welfare Act. (North Carolina General Statutes 19A-20 et seq.)

(2) *Code enforcement officer* means the town-appointed official responsible for the enforcement of Ordinances of the Town of Sandy Creek Code and for review of building permit applications.

(3) *Operator* means a person responsible for any phase of a kennel operation including, but not limited to, the owner of the premises where the kennel is situated, the occupant of the premises (if different from the owner), the caretaker of the kenneled dogs, etc.

(4) *Premises* means Any platted or unplatted parcels of land under single ownership or having substantial identity of ownership, or devoted to a single identifiable use or integrated group of uses.

(5) *Dog* means any domestic or domesticated dog, being a member of the species *Canis familiaris*.

#### **(b) Permits**

(1) It shall be unlawful for the owner or keeper of wild animals and livestock to permit

(2) The code enforcement officer shall issue the permit required by this section if the following conditions are met. The code enforcement officer may require proof that each condition has been met.

(3) Each dog to be kept or maintained in the kennel must be vaccinated for rabies as required by North Carolina General Statutes 130A-185 and in accordance with Brunswick County Code;

(4) Each dog to be kept or maintained in the kennel must be licensed and all applicable licensing fees paid in accordance with the Brunswick County Code;

(5) Where the dogs are to be kept or maintained in any kennel or enclosure other than the principal structure on the premises, whether on a temporary or permanent basis, said kennel or enclosure must satisfy the size and location criteria:

- A minimum of 25 square feet per dog;
- The enclosure cannot be built in the front or side yard;
- The enclosure cannot be built within 10 feet of any property line; and
- The enclosure cannot be built within 25 feet of another residence.

(6) The applicant or any other person associated with the operation of the kennel must not have been convicted of or found liable for cruel or inhumane treatment of animals within the five (5) years next preceding the date of the permit application;

(7) There must be no violations of any health or sanitation codes or ordinance arising from or in connection with the handling or disposal of animal wastes involving the premises or any person associated with the operation of the kennel for the five (5) years next preceding the date of the permit application;

(8) If the applicant is not the owner of the premises proposed for the kennel operation, there must be written permission from the owner of the premises to engage in the operation of the kennel;

(9) There must be no reported incidents of noise disturbances caused by barking dogs or incidents of injurious or threatening behavior by dogs on the premises for the twelve (12) months next preceding the date of the permit application. Any such incidents must be independently confirmed in the records of the Animal Control Division of Brunswick County.

(10) No more than one kennel permit may be issued for any premises within the city. For purposes of determining the number of dogs, all dogs on a single premises shall be included in the total.

(11) When a kennel permit is denied for any reason, the code enforcement officer shall state the reason for the denial in writing and shall deliver the determination to the applicant personally or by registered or certified mail, return receipt requested.

(12) Any kennel issued a permit pursuant to this section shall be maintained in a clean and sanitary condition at all times: The portion of the premises occupied by the kennel shall be cleaned of dog feces and other animal waste at least once a day and said feces and animal waste shall be properly disposed of. Failure to maintain a kennel in accordance with this provision shall

also result in the kennel and dogs being declared a public nuisance and shall subject the kennel operator to the abatement procedures and penalties set forth therein.

(13) The requirements of this section apply to all kennels in operation within the city on the effective date of this section, as well as any established or brought within the city thereafter. However, operators of kennels that are within the city on the effective date of this section shall not be deemed in violation until after they have been notified in writing of the requirements of this section and have failed to apply for the required permit within thirty (30) days. In any event, no kennel operator shall be deemed in violation of this section for a period of one hundred eighty (180) days following its effective date.

(14) A permit issued in accordance with this section may be revoked by the code enforcement officer for any of the reasons enumerated above. The code enforcement officer shall state the reason for the revocation in writing and shall deliver the determination of revocation to the permittee personally or by registered or certified mail, return receipt requested.

(15) Any person who is denied a permit or whose permit is revoked pursuant to this section shall have thirty (30) days to comply with the requirements of this section or to reduce the number of dogs on the premises to not more than four (4).

(16) Any person who is denied a permit or who has a permit revoked may appeal the denial or revocation to the city manager or his designee by giving written notice of appeal to the city manager within thirty (30) days or after the receipt of the written determination. The city manager or his designee shall conduct a de novo hearing to determine if the permit should be denied or revoked. Any enforcement action shall be stayed pending determination of an appeal pursuant to this subsection.

## **ARTICLE II. DOGS**

### **Sec. 4-16. Running at large prohibited. (DELETED April 14, 2003)**

It shall be unlawful for a person owning or having the custody of any dog to willfully permit or allow such dog to run at large in the town, except when accompanied or controlled by the owner or custodian. It shall be unlawful for a dog to be on the premises of a person other than the owner or custodian of such dog unless the owner of the premises has agreed to let the dog upon his premises. Any dog found running at large with or without the consent or knowledge of the owner or custodian may be impounded.

(Code 1988)

**State law references** – Authorization to regulate, restrict, and prohibit domestic animals running at large, G.S. 160A-186; animal license tax authorized, G.S. 160A-212; confinement of vicious dogs, G.S. 106-381; rabies, G.S. 106-364 et seq.

### **Sec. 4-17. Civil Penalty.**

“Any violation of chapter 4 shall subject the offender to a civil penalty under section 1-15 in the amount of Fifty (\$50.00) Dollars by the issuance of a civil citation which must be paid within seventy-two (72) hours after receipt of same and each day any such violation continues shall constitute a separate offense for which a civil citation may be issued by the Police Department.”

## RESOLUTION TO ADOPT AND REPLACE

**WHEREAS**, the Town Council of Sandy Creek shall under G.S. 160D-75 adopt and replace Sec. 4-6 entitled "Keeping of Birds.

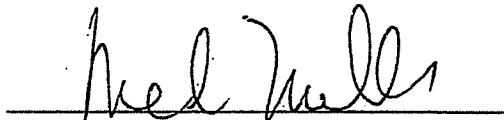
**WHEREAS**, the Town Council has, by due notice of advertisement, held a Public Hearing on adopting and replacing verbiage of Sec. 4-6. and

**WHEREAS**, the purpose is to add under Sec-46 (c) Violations, "Any violations of these sections will subject the offender to a civil penalty in the amount of \$50.00 by the issuance of a civil citation which must be paid within seventy-two (72) hours after receipt of same and each day any such violation continues shall constitute a separate offense for which a civil citation may be issued by the Town of Sandy Creek's enforcement officer."

**WHEREAS**, the Town Council finds the modifications to meet the standards of G.S 160D-601 and

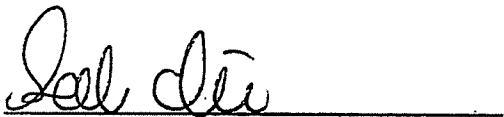
**NOW, THEREFORE, BE IT RESOLVED**, by the Town Council of Sandy Creek,

On this day of April 7, 2025, Sec. 4-6 Poultry shall be adopted.

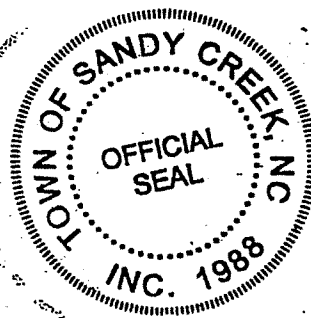


Mel Miller, Mayor

ATTEST



Sabra Child, Town Clerk





## RESOLUTION TO ADOPT AND REPLACE

**WHEREAS**, the Town Council of Sandy Creek shall adopt and replace Section 4-16 currently "Running At Large Prohibited", and

**WHEREAS**, the Town Council has, by due notice of advertisement, held a Public Hearing on adopting and replacing verbiage of Sec. 4-16 and,

**WHEREAS**, the purpose is to replace in Sec. 4-16 "Dogs within the town of Sandy Creek" and to add Kennels Definitions, and

**WHEREAS**, the Town Council finds the modifications to meet the standards of G.S. 160D-601, and

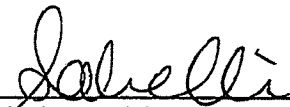
**NOW, THEREFORE, BE IT RESOLVED**, by the Town Council of Sandy Creek,

On this day of April 7, 2025, Sec. 4-16 Dogs within the town of Sandy Creek shall be adopted.

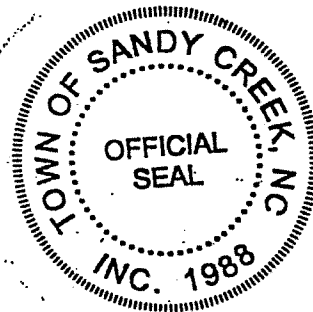


Mel Miller, Mayor

ATTEST



Sabra Child, Town Clerk



# BUILDINGS AND BUILDING REGULATIONS

## Chapter 5

### BUILDINGS AND BUILDING REGULATIONS\*

- Art. I. In General, ss5-1 – 5-15
- Art. II. Administration, ss5-16 – 5-75
- Div. 1. Generally, ss5-16 - 5-25
  - Div. 2. Building Commissioner, ss5-26 – 5-40
  - Div. 3. Building Inspectors, ss5-41 – 5-60
  - Div. 4. Permits, ss5-61 – 5-75
- Art. III. Fire Limits, ss5-76 – 5-90
- Art. IV. Building Construction Standards, ss5-91 – 5-105
- Art. V. Minimum Housing Code, ss5-106 – 5-120
- Art. VI. Numbering of Buildings, ss5-121 – 5-140
- Art. VII. Fences, ss5-141 – 5-155
- Art. VIII. Moving Buildings, ss5-156 – 5-164
- Art. IX. Mobile Home Set-up and Installation, ss5-165 – 5-166

#### ARTICLE I. IN GENERAL

Sec. 5-1 – 5-15. Reserved.

#### ARTICLE II. ADMINISTRATION

##### DIVISION 1. GENERALLY

Sec. 5-16 – 5-25. Reserved.

\*Cross references – Animals, Ch. 4; dogs prohibited from running at large in the town, ss-4-16; fire protection and prevention, Ch. 6; garbage and trash, Ch. 7; motor vehicles and traffic, Ch. 10; nuisances, Ch. 11; parks and recreation, Ch. 12; streets, sidewalks, and other public places, Ch. 14; utilities, Ch. 17; zoning, Ch. 19.

State law references – Administrative staff, G.S. ss160D-402 et seq.; state building code and building code council, G.S. ss143-136 et seq.; warrants to conduct inspections, G.S. ss15-27.2; fire limits, G.S. ss160D-1128 et seq.; minimum housing codes authorization, G.S. ss160D-1201 et seq.; fire escapes, G.S. ss69-8 et seq.; contractors, G.S. Ch. 87; public building contracts, G.S. ss143-128 et seq.; manufactures housing and mobile homes, G.S. ss143-143.8 et seq.; North Carolina Code Officials Qualification Board, G.S. ss143-151.8 et seq.; enforcement of building code insulation and energy utilization standards, G.S. ss143-151 et seq.; technical ordinances, G.S. ss160A-76; inspection of buildings for fire hazards, G.S. ss69-4; regulating and licensing businesses, trades, etc., G.S. ss160A-194.

# **BUILDINGS AND BUILDING REGULATIONS**

## **DIVISION 2. BUILDING COMMISSIONER\***

### **Sec. 5-26. Established.**

The town council does hereby establish the office of building commissioner whose position shall be filled by one of the council members as elected by the town council immediately following the swearing in ceremonies. The building commissioner shall serve a term of two (2) years.

### **Sec. 5-27. Duties.**

The duties of the building commissioner shall be to bring to the attention of the building inspector any infractions or violations of the town ordinances and building code pertaining to zoning and construction, demolition, alternations, or repairs of structures within the jurisdiction of the town, and such other duties as the town council shall prescribe.

State law reference – Public officers, G.S. ss128-1 et. Seq.

### **Sec. 5-28 – 5-40. Reserved.**

## **DIVISION 3. BUILDING INSPECTORS\*\***

### **Sec. 5-41. Appointment.**

A building inspector for the town council shall be appointed by the town council.

### **Sec. 5-42. Disposition of fees.**

All fees collected by the building inspector under the authority of law and the provisions of the Code and other ordinances of the town shall be promptly paid by the building inspector to the treasurer of the town.

\*Charter reference – Commissioner of public safety to be in charge of all building inspections, ss8  
Cross reference – Officers and employees, ss2-71 et seq.

\*\*Cross reference - Officers and employees, ss2-71 et seq.

State law references – Administrative staff, G.S. 160D-402 et seq.

### **Sec. 5-43. Powers and duties generally.**

The building inspector shall have all of the powers and duties provided by the laws of the state and the provisions of this Code and other ordinances of the town in the conduct of his official duties.

State law references – Duties and responsibilities, G.S. ss160D-1104; enforcement, G.S. ss160D-404 building code enforcement, G.S. ss160D Article 11 et seq.

## **BUILDINGS AND BUILDING REGULATIONS**

### **Sec. 5-44. Reports.**

The building inspector shall make regular reports as requested by the town council.

State law reference – Records and reports, G.S. ss160D-1126.

### **Sec. 5-45. Record of permits issued.**

The building inspector shall keep a record of all permits issued and of the statements upon which such permits are issued.

State law reference – Records and reports, G.S. ss160D-1126.

### **Sec. 5-46. Right of entry.**

The building inspector may enter at all reasonable times in buildings, structures, or premises within the town for the purposes of inspection or other enforcement action, upon presentation of proper credentials.

If a building permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes.

The building inspector may make periodic inspections, subject to the Town Council's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within the Town's planning and development regulation jurisdiction. In exercising this power, the building inspector shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Inspections of dwellings shall follow the provisions of G.S. 160D-1207.

State law reference – Inspections of work in progress, G.S. ss160D-1113; periodic inspections, ss160D-1117.

### **Sec. 5-47. Altering buildings.**

No building shall be altered until it has been examined and approved by the building inspector as being in good and safe condition to be altered, as proposed, and alterations so made shall conform to the building laws in force.

### **Sec. 5-48 – 5-60. Reserved.**

# **BUILDINGS AND BUILDING REGULATIONS**

## **DIVISION 4. PERMITS\***

### **Sec. 5-61. Prerequisite to construction, demolition, remodeling, etc.**

Except as provided in section 5-62, no building, building repairs, remodeling, installation, other construction, or demolition shall be begun in the town, until a permit has been obtained from the building inspector.

State law reference – Building permits, G.S. ss160D-1110.

### **Sec. 5-62. Fees.**

All building permit fees are on file in the town clerk's office.

Cross references – Town clerk, ss2-106; town treasurer, ss2-121.

State law references – Administrative staff, G.S. ss160D-402(b).

### **Sec. 5-63. Permits applied for after construction.**

Any permit that is applied for after construction has begun, the fee for such permit shall be the established fee plus fifty dollars (\$50.00) or twice the established fee, and whichever is greater.

### **Sec 5-64. Permit expiration**

Building permits are valid for six (6) months after date of issuance if the work authorized by the permit has not been commenced. If, after commencement, the work is discontinued for a period of 12 months, the permit shall immediately expire and no work authorized by the expired permit shall be performed thereafter until a new permit has been issued.

### **Secs. 5-65 – 5-75. Reserved.**

\*State law references – Building permits, G.S. ss160D-1110; expiration of building permits, G.S. ss160D-1111.

## **ARTICLE III. FIRE LIMITS\*\***

### **Sec. 5-76. No. 1 fire district – Boundaries.**

In order to establish for a more uniform system of regulation in promoting and protecting the health, safety and welfare as well as the orderly growth within the community, the description hereinafter appearing shall be the amended fire district limits of the town:

## **BUILDINGS AND BUILDING REGULATIONS**

The primary fire district shall consist of the following property located within the B-1 district:

### **ARTICLE IV. BUILDING CONSTRUCTION STANDARDS\***

#### **Sec. 5-91. Adoption of the North Carolina State Building Code, including amendments; area of jurisdiction.**

The North Carolina State Building Code, including all amendments thereto, as published by the North Carolina Building Code Council and the North Carolina Department of Insurance, is hereby adopted by reference as the building code for the town, when the same is filed in the office of the town clerk. It shall be unlawful for any person to fail, neglect or refuse to comply with the provisions of such North Carolina Building Code, and amendments thereto.  
(Code 1973, ss6-23)

State law references – North Carolina State Building Code, G.S. ss143-138; state building code council and building code, G.S. ss143-136 et seq.; code officials qualifications board, G.S. ss143-151.8 et seq.; administrative staff, G.S. ss160D-402; building code administration, G.S. ss160D-1102 violation of building code, G.S. ss143-138(h); plumbing and heating contractors, G.S. ss87-16 et seq.; statewide licensing of electricians and plumbers, G.S. ss109-91; technical ordinances, G.S. ss160A-76.

\*State law references – Administrative staff, G.S. ss160D-402 et seq.; building code enforcement, G.S. 160D Article 11; state building code and building code council, G.S. ss143-136 et seq.; warrants to conduct inspections, G.S. ss1-27.2; fire limits, G.S. ss160D-1128 et seq.; minimum housing standards, G.S. ss160A-411 et seq.; fire limits, G.S. ss160A-435 et seq.; minimum housing codes, G.S. ss160D Article 12 et seq.; fire escapes, G.S. ss69-8 et seq.; contractors, G.S. Ch. 87; public building contracts, G.S. ss143-128 et seq.; manufactured housing and mobile homes, G.S. ss143-143.8 et seq.; North Carolina Code Officials Qualification Board, G.S. ss143-151.8 et seq.; enforcement of building code insulation and energy utilization standards, G.S. ss143-151.26 et seq.; technical ordinances, G.S. ss160A-76; inspection of buildings for fire hazards, G.S. ss69-4; regulating and licensing businesses, trades, etc., G.S. ss160A-194. Supp. No. 1.

#### **Sec. 5-92. Drainage of water from buildings.**

All gutters, pipes, or leaders now used for conducting rainwater from buildings in the town or which may be hereafter constructed and used for such purposes, shall be so constructed that no runoff shall be allowed to flow upon the adjoining property owner; (and) that such flow of water shall be carried or directed to flow to a proper drainage area or into an appropriate storm drainpipe, whichever is most appropriate or efficient.

#### **Sec. 5-93. Adoption of North Carolina Uniform Residential Building Code, including amendments; area of jurisdiction.**

The North Carolina Uniform Residential Building Code, including all subsequent amendments thereto, prepared by the North Carolina Building Inspectors' Association and the North Carolina State Building Code Council, is hereby adopted by reference as the Uniform Residential Building Code for the town when the same is filed in the office of the town clerk. It shall be unlawful for any person to fail, neglect, or refuse to comply with the

## BUILDINGS AND BUILDING REGULATIONS

provisions of such North Carolina Uniform Residential Building Code and amendments thereto.

State law reference – Technical ordinances, G.S. ss160A-76.

### **Sec. 5-94. Supplemental district regulations, Coastal Area Management Act.**

Each application for a building permit shall include information as to the location of applicable areas of environmental concern. Prior to the issuance of a building permit, the code enforcement official shall certify that the proposed structure or facility is in accordance with the North Carolina Administrative Code, Title 15, Chapter 15, Subchapter 71, "State Guidelines for Areas of Environmental Concern."

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Editor's note – Section 5-94 derived from an ordinance adopted May 15, 1979, and has been included herein at the direction of the city with the publication of Supplement No. 1

State law reference – Coastal Area Management Act, G.S. ss113A-100 et seq. Supp. No. 1

## **ARTICLE V. MINIMUM HOUSING CODE**

### **Sec. 5-106. Adopted.**

It is hereby found and declared pursuant to G.S. section 160D-1201 that the existence and occupation of dwellings in this Town that are unfit for human habitation are inimical to the welfare and dangerous and injurious to the health, safety and morals of the people of this Town, and that a public necessity exists for the repair, closing or demolition of such dwellings. Whenever it is found that there exists in the Town dwellings that are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering the dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of the Town, the Town shall exercise its police powers to repair, close or demolish the dwellings in the manner herein provided.

The Town in addition may by Ordinance provide for the repair, closing or demolition of any abandoned structure which the Town Council finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities. Such ordinance, if adopted, may provide for the repair, closing or demolition of such structure pursuant to the same provisions and procedures as are prescribed herein for the repair, closing or demolition of dwellings found to be unfit for human habitation.

### **Sec. 5-107. Definitions.**

The following terms shall have the meanings whenever used or referred to as indicated when used in this article unless a different meaning clearly appears from the context:

## BUILDINGS AND BUILDING REGULATIONS

Sandy Creek means the incorporated Town of Sandy Creek.

Dwelling means any building, structure, manufactured home or mobile home or part thereof, used and occupied for human habitation or intended to be used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home, which is solely for a seasonal vacation purpose.

Governing body means the Town Council or Board of Commissioners of the Town of Sandy Creek, or vice-versa.

Manufactured home or mobile home means a structure as defined in G.S. Section 143-145(7).

Owner means the holder of the title in fee simple and every mortgagee of record.

Parties in interest mean all individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

Public authority means any housing authority or any officer who is in charge of any department or branch of the government of the Town relating to health, fire, building regulations, or other activities concerning dwellings in the Town.

Public officer means the officer or officers who are authorized by Ordinance adopted hereunder to exercise the power prescribed by the Ordinance and the General Statutes of North Carolina.

### **Sec. 5-108. Findings of Council.**

Upon the adoption of an Ordinance finding that dwelling conditions of the character described in Section 5-106 exists within the Town, this article shall include the following provisions:

- (1) That a public officer be designated or appointed to exercise the powers prescribed by the Ordinance.
- (2) That whenever a petition is filed with the public officer by a public authority or by at least five residents of the jurisdiction charging that any dwelling is unfit for human habitation or when it appears to the public officer that any dwelling is unfit for human habitation, the public officer shall, if a preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that an administrative hearing will be held before the public officer, or the officer's designated agent, at a place within the county in which the property is located. The hearing shall be not less than 10 days nor more than 30 days after the serving of the complaint. The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person,



## BUILDINGS AND BUILDING REGULATIONS

or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law shall not be controlling in administrative hearings before the public officer.

- (3) That if, after notice and an administrative hearing, the public officer determines that the dwelling under consideration is unfit for human habitation, the officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner one of the following orders, as appropriate:
  - a. If the repair, alteration, or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling, requiring the owner, within the time specified, to repair, alter, or improve the dwelling in order to render it fit for human habitation. The ordinance may fix a certain percentage of this value as being reasonable. The order may require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order under subsection (4) of this section.
  - b. If the repair, alteration, or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling, requiring the owner, within the time specified in the order, to remove or demolish the dwelling. The ordinance may fix a certain percentage of this value as being reasonable.
- (4) That if the owner fails to comply with an order to repair, alter, or improve or to vacate and close the dwelling, the public officer may cause the dwelling to be repaired, altered, or improved or to be vacated and closed, and the public officer may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor. The duties of the public officer set forth in this subsection shall not be exercised until the Town Council shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.
- (5) That if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished. The duties of the public officer set forth in this subsection shall not be exercised until

## BUILDINGS AND BUILDING REGULATIONS

the Town Council shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Article with respect to the particular property or properties that the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

- (6) That if the dwelling has been vacated and closed for a period of one year pursuant to an ordinance adopted pursuant to G.S. Section 160D-1203(4) or after a public officer issues an order or proceedings have commenced under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed as provided in this subsection, then the Town Council may find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, and welfare of the town in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling that might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the Town Council may, after the expiration of such one-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

- a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days.
- b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.

(7) Liens. —

- a. The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall

## BUILDINGS AND BUILDING REGULATIONS

be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.

- b. If the real property upon which the cost was incurred is located in an incorporated city, then the amount of the cost is also a lien on any other real property of the owner located within the city limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this sub-subsection is inferior to all prior liens and shall be collected as a money judgment.
  - c. If the dwelling is removed or demolished by the public officer, the Town shall sell the materials of the dwelling, and any personal property, fixtures, or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.
- (8) That if any occupant fails to comply with an order to vacate a dwelling, the public officer may file a civil action in the name of the Town to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. If the summons appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the Town Council pursuant to subsection (5) of this section authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the Town Council has ordered the public officer to proceed to exercise his duties under subsections (4) and (5) of this section to vacate and close or remove and demolish the dwelling.

## BUILDINGS AND BUILDING REGULATIONS

- (9) That whenever a determination is made pursuant to subsection (3) of this section that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the public officer, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The public officer or clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the public officer to wait 45 days before causing removal or demolition.

### **Sec. 5-109. Public officer and standards.**

The public officer for the Town of Sandy Creek shall be the building inspector who may determine that a dwelling is unfit for human habitation if he finds that conditions exist in the dwelling that render it dangerous or injurious to the health, safety or morals of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the Town. Defective conditions may include the following: defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; faulty and improper wiring; structural defects; or uncleanness. This article is intended to give such powers to the public officer as he may derive from Article 12 Minimum Housing Codes of G.S. 160D et seq. and the Town adopts these statutes and incorporates them in this article as if fully set out herein verbatim.

### **Section 5-110. Powers of public officer.**

The Building Inspector is hereby authorized to exercise any statutorily authorized powers necessary or convenient:

- (1) To investigate the dwelling conditions in the Town in order to determine which dwellings therein are unfit for human habitation;
- (2) To administer oaths, affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examinations in a manner that will do the least possible inconvenience to the person in possession.
- (4) To appoint and fix the duties of officers, agents, and employees necessary to carry out the purpose of the Ordinance; and
- (5) To delegate any of his functions and powers under the Ordinance to other officers and other agents.

## BUILDINGS AND BUILDING REGULATIONS

### Sec. 5-111. Remedies.

Any appeals may be taken from any decision or order of the public officer and such appeals will be heard and determined by the Sandy Creek Board of Adjustments as set out in G.S. Section 160D-405 of the North Carolina General Statutes, excepting appeals of stop work orders which may be appealed as set out in G.S. Section 160D-1114.

Cross reference – Board of adjustment, 19-41 et seq.

### Sec. 5-112. Emergency condemnation.

The Town of Sandy Creek is constantly threatened by hurricanes, cyclonic winds and severe erosion which threatens the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare or security as a result of severe fire, explosion, erosion, cyclonic winds, hurricanes or similar natural or accidental cause which is beyond the control of public or private agencies ordinarily responsible for the control of relief of such conditions; and

The Town is authorized under North Carolina General Statute 160D-1203 to empower its minimum housing inspector to condemn any structure or dwelling if he finds that conditions exist in the dwelling that render it dangerous or injurious to the health, safety or morals of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the Town.

The Town Council of the Town of Sandy Creek does hereby authorize and directs its minimum housing inspector to immediately condemn and render unfit any dwelling or structure that he finds unfit or defective for human habitation because of defects therein increasing hazards of fire, accident, or other calamity; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair or structural defects that are found to exist because of any hurricanes, cyclonic wind or erosion which caused or brought any of the above conditions to the minimum housing inspector's attention and the appellate section of the minimum housing code shall apply.

Adopted this the 8 day of October, 2001.

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Earl Gurkin, Mayor

Attest:

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Town Clerk

## BUILDINGS AND BUILDING REGULATIONS

**Sec. 5-95 – 5-105. Reserved.**

### ARTICLE V. MINIMUM HOUSING CODE\*

**Sec. 5-106. Adopted.**

The 1985 edition of the Standard Housing Code is hereby adopted by reference, a copy of which is on file in the office of the town clerk. Where the words "Housing Board of Adjustments and Appeals" are specified, it shall be construed to mean the board of minimum housing standards as constituted in this article.

**Sec. 5-107. Finds of council.**

Pursuant to G.S. section 160D-1201, it is hereby found and declared that there exist in the town dwellings which are unfit for human habitation or are inimical to the welfare, and dangerous and injurious to the health, safety and morals of the people of the town due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light, or sanitary facilities, and due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the town.

**Sec. 5-108. Scope of article.**

The provisions of this article shall apply to all housing constructed within the town. Portable, mobile, or demountable buildings or structures, including trailers, when used or intended for use for housing with the town, shall be subject to the applicable provisions of this article. This article establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alternation, or use of buildings, equipment, or facilities except as provided in this article.

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\*Cross references – Fire protection and prevention, Ch. 6; garbage and trash, Ch. 7; nuisances, Ch. 11; streets, sidewalks and other public places, Ch. 14; subdivisions, Ch. 15; zoning, Ch. 19.

State law references – Authorization, G.S. ss160D-1201 et seq.; Standards, G.S. ss160D-1205; additional powers of public officer, G.S. ss160D-1210; supplemental nature of article, G.S. ss160D-1212; liens, G.S. ss160D-1203(7).

**Sec. 5-109 – 5-120. Reserved.**

## **BUILDINGS AND BUILDING REGULATIONS**

### **ARTICLE VI. NUMBERING OF BUILDINGS\***

#### **Sec. 5-121. Duty of owner to place number on building.**

It shall be the duty of the owner, agent, or occupant of any house or building fronting on a street in the town to properly display a number which has been assigned by the town. The owner, agent, or occupant of such house or building shall place such number in a conspicuous place thereon so that it may be plainly seen and observed from the street.

#### **Sec. 5-122. When building considered officially numbered.**

All houses shall be considered officially numbered when numbered in strict accordance and compliance with the plans and maps prepared by the town prescribing the method of numbering buildings after adoptions by the town council.

#### **Sec. 5-123. Base lines for numbering.**

The highway US74-76 – Sandy Creek Drive shall be the base lines for the purpose of numbering houses and buildings.

#### **Sec. 5-124. Method as to east-west streets.**

Each street running east and west or substantially in that course shall, for the purpose of numbering under this article, have its beginning at the edge of Sandy Creek Drive, numbers to begin at this initial point and to end at the western boundaries of the town.

\*Cross references – Fire protection and prevention, Ch. 6; garbage and refuse, Ch. 7; police, Ch. 13; streets, sidewalks, and other public places, Ch. 14; subdivisions, Ch. 15; utilities, Ch. 17; zoning, Ch. 19. Supp. No. 1

### **ORDINANCE**

That Sections 5-121 and 5-128 of the Code of the Town of Sandy Creek, North Carolina, are hereby amended to read as follows:

#### **Sec. 5-121. Duty of owner to place number on building.**

It shall be the duty of the owner, agent or occupant of any house or building fronting on a street in the Town to properly display a number three inches in height (minimum) which has been assigned by the Town. The numbers shall be reflective in design and shall be placed in a conspicuous place on the structure so as to be plainly seen and observed from the street.

#### **Sec. 5-128. Refusal to comply.**

## BUILDINGS AND BUILDING REGULATIONS

Any owner, agent or occupant of any house or building failing or refusing to comply with Section 5-121 et seq. after receiving written notification from the Town giving them fifteen (15) days within which to comply with Sec. 5-121; then and in that event, the code enforcement officer shall subject the offender, after due notice given hereinabove, to a civil penalty as prescribed in sec. 1-15 of this Code.

Adopted this the \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

### **Sec. 5-125. Method as to north-south streets.**

Each street running north and south or substantially in that course shall for the purpose of numbering under this article begin at the north-south side of US74-76 north and south from such initial point to the corporate limits of the town.

### **Sec. 5-126. Location of odd and even numbers.**

Even numbers shall be placed on the right-hand side of the street and odd numbers on the left-hand side of the street, going from the base lines named in section 5-123.

### **Sec. 5-127. Change of individual numbers.**

Individual numbers assigned as provided in this article may be changed by the town council as the necessity therefore may arise.

### **Sec. 5-126 – 5-140. Reserved.**



# **BUILDINGS AND BUILDING REGULATIONS**

## **ARTICLE VII. FENCES\***

### **Sec. 5-141. Restrictions; exemptions.**

(a) Fences shall be defined as construction of any solid barriers or fence, including wire fences containing any type of webbing or weaving which creates a solid appearance, erected and designed for the purpose of privacy or designation of property lines. Any such type of fence constructed within the jurisdiction of the town shall not exceed six (6) feet in height, providing that such fence shall not extend beyond the back corner of the dwelling.

(b) A wire fence other than defined herein which is erected or constructed shall not exceed five (5) feet in height.

(c) This section shall apply to such barriers and fences which are constructed on or within five (5) feet of the side lines of property, or ten (10) feet of the rear of the owner's property line. It shall be unlawful for any person to erect, construct, or maintain on any premises along any street of the town, any barbed wire or barbed-wire fences.

(d) Exemptions. This section shall not apply to any utility company or government agency which must maintain fences around their utility equipment and property, which are by nature enclosed to protect the general public from safety hazards and which are classified by law as an attractive nuisance.

### **Sec. 5-142 – 5-155. Reserved.**

\*Cross references – barbed wire fences prohibited along any street of the town, ss14-14; streets, sidewalks, and other public places, Ch. 14; subdivisions, Ch. 15; zoning, Ch. 19.  
Supp. No. 1

## **ARTICLE VIII. MOVING BUILDINGS\***

### **Sec. 5-156. Requirements for moving buildings.**

No building shall be moved from an area outside the town limits or its extraterritorial jurisdiction to any lot or parcel of land within the corporate limits or its extraterritorial jurisdiction; except new modular unit construction or manufactured homes which meet the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974 (effective July 1, 1976). Any building moved within the corporate limits or its extraterritorial jurisdiction to another lot or parcel of land within the corporate limits or the extraterritorial jurisdiction of the town shall conform completely to the North Carolina State Minimum Building Code and the town's building codes and requirements set forth in the town's zoning ordinance.

\*Cross reference – Licensing, business regulations, Ch. 8; motor vehicles and traffic, Ch. 10; streets, sidewalks, and other public places, Ch. 14; subdivision, Ch. 15; utilities, Ch. 17; zoning, Ch. 19.

State law reference – House moving, G.S. ss20-356 et seq.; compliance with municipal regulations, G.S. ss20-368.

## **BUILDINGS AND BUILDING REGULATIONS**

### **Sec. 5-157. Conditions of building to be moved.**

The building inspector will insure that the building to be moved meets all building codes related to framing (rafter, studding, headers, and floor and ceiling joist), and sheathing before the building is moved. No building shall be granted a permit to be moved within the town's corporate limits or its extraterritorial jurisdiction if it does not meet state and town building codes, or if any of the framing timbers are damaged or deteriorated. The building inspector will examine a minimum of two (2) exterior inside walls to insure framing conforms to the building code. The walls to be exposed will be selected by the building inspector, but the work of exposing the framing will be accomplished by the owner of the building.

### **Sec. 5-158. Condition of building before occupancy is permitted.**

The placement of the building shall meet all the requirements set forth in the town's zoning ordinance. The building shall also be in compliance with all building codes related to such building. This shall include, but not be limited to, footing, tie down rods, framing, flooring, roofing, sheathing, plumbing, and electrical wiring. The exterior of the building (roofing and siding) shall be uniform and in good condition. The building shall be ready for occupancy within six (6) months from the time it is placed on the lot, if it is not ready within this time period it shall be condemned.

### **Sec. 5-159. Permit required for moving of building.**

No person shall move, or assist in moving, any building through any street or over any paved sidewalk in the town unless a written permit has been issued by the building inspector. The building inspector may refuse to grant a permit when, in his opinion after having examined the building to be moved, it is of such bulk or is of such weight as to constitute as undue hazard to the street pavements, curbs, signs, street plantings or other items within the public right-of-way.

### **Sec. 5-160. Permit application.**

Any person desiring a permit as required in this section shall file an application with the building inspector. Such application shall describe the building intended to be moved, set out the route over which the building is to be moved, and shall contain such other information as may be required by the building inspector. Complete plans, specifications, and drawings shall be submitted to insure that such building shall aesthetically be compatible with the surrounding neighborhood.

### **Sec. 5-161. Appeal to board of adjustment upon refusal of building inspector.**

Upon refusal of the building inspector to issue any permit pursuant to this article, the applicant may, by notice filed with the building inspector within thirty (30) days after being notified of such refusal, appeal such action to the board of adjustment.

Cross reference – Board of adjustment, 19-41 et seq.

## **BUILDINGS AND BUILDING REGULATIONS**

### **Sec. 5-162. Bond.**

The building inspector may require, as a prerequisite to the issuance of a permit pursuant to an application filed as provided in this article, that a satisfactory bond be filed, conditioned, among other things, that the permittee will pay and all damages which may happen to any or all public and/or private property by such house mover, his agents, employees or workmen; and conditioned, that such permittee will save and indemnify and keep harmless the town against all liabilities, judgments, cost and expense which may in any way accrue against the town in consequence of the granting of such permit, and that such permittee will in all things strictly comply with the terms and conditions of his permit. In addition, the house mover will be required to have adequate liability insurance.

### **Sec. 5-163. Trimming of trees.**

No trees or shrubs in the public right-of-way plaza shall be trimmed without prior approval by the director of public works.

Whenever it becomes necessary to trim trees or plaza planting in order to move a building along a street, the permittee shall do such trimming under the supervision of, and to the satisfaction of, the director of public works. Any trees broken or mutilated during the move of a building shall be reshaped by trained personnel at the expense of the permittee and to the satisfaction of the director of public works.

Cross reference – Director of public works, 2-141 et seq.

### **Sec. 5-164. Cutting of wires.**

Whenever it becomes necessary to cut wires, when any building is being moved along a street pursuant to a permit as required in this article, the permittee must, prior to the beginning of the movement, make satisfactory arrangements covering the cost of cutting and repairing such wires with the owning utility.

## **ARTICLE IX. MOBILE HOME SET-UP AND INSTALLATION 5-165 – 5-170**

### **Sec. 5-165. Mobile Home Anchors.**

All mobile homes as defined in this code and which are placed on property shall be permanently anchored in place.

### **Sec. 5-166. Skirting Requirement.**

All mobile homes set-up permanently in the Town shall have skirting installed in accordance with the following requirements:

- (1) Skirting shall be of non-combustible material or material that will not support combustion. Skirting material shall be durable and suitable for exterior exposures.

## **BUILDINGS AND BUILDING REGULATIONS**

- (2) Any wood framing used to support the skirting shall be of moisture resistant treated wood.
- (3) Skirting shall be installed no later than ninety (90) days after the set-up of the mobile home.

### **ARTICLE X. PENALTY**

#### **Sec. 5-167. Penalty**

Any person, firm or corporation violating any of the provisions of chapter 5 shall be subject to punishment as provided in sec. 1-15 Civil Penalty by receiving a civil citation from the building inspector or the building commissioner after having first received a written warning at least ten (10) days prior to the issuance of a civil citation.

## **Chapter 6**

### **FIRE PROTECTION AND PREVENTION\***

**Art. I. In General, ss6-1 – 6-15**

**Art. II. Fire Department, ss6-16 – 6-30**

**Art. III. Fire Code, ss6-31, 6-32**

#### **ARTICLE I. IN GENERAL**

##### **Sec. 6-1. False fire alarms.**

Any person who shall give a false alarm of fire, or who breaks or causes to be broken the glass key protector, or pulls down or causes to be pulled down the slide, arm or lever of any station or signal box, or who turns the handle until the bell rings in any fire alarm box, with intent to send in a false alarm, shall be subject to a penalty of fifty dollars (\$50.00) for each and every offense.

**Cross reference** – Miscellaneous offenses, Ch. 9.

**State law reference** – Similar provisions, G.S. ss 14-286.

##### **Sec. 6-2. Obstructing hydrants.**

It shall be unlawful for any person to obstruct, with building material or otherwise, any hydrant or fireplug in the town in such manner as to interfere with or obstruct the easy approach, to the same or its convenient use by the fire department.

**Cross reference** – Motor vehicles and traffic, Ch. 10; subdivisions, Ch. 15; utilities, Ch. 17; vehicles for hire, Ch. 18; zoning, Ch. 19.

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**\*Cross reference** – Numbering of buildings required, ss 5-121; buildings and building regulations, Ch. 5; minimum housing code, ss 5-106 et seq.; fire district boundaries, ss 5-76; garbage and trash, Ch. 7; miscellaneous offenses, Ch. 9; motor vehicles and traffic, Ch. 10; nuisances, Ch. 11; police, Ch. 13; streets, sidewalks and other public places, Ch. 14; subdivisions, Ch. 15; utilities, Ch. 17; zoning, Ch. 19.

**State law references** - Fire protection, G.S. Ch. 69; fire protection in municipalities, G.S. ss 160A-291; fireman's relief fund, G.S. Ch. 118 and ss 160A-163; fire escapes, G.S. ss 69-8 et seq.; authority of fireman, G.S. ss 69-39; unlawful setting of fires, G.S. ss 14-136 et seq.

**Sec. 6-3. Burning trash, papers, rubbish and garbage.**

- (a) No person, firm or corporation shall burn any trash, papers, rubbish or garbage out of doors anywhere in the town, except as hereinafter provided. This section shall not prohibit the use of an outdoor fire for cooking.
- (b) No person, firm or corporation shall kindle or maintain any bonfire or rubbish fire of waste materials from construction or demolition of building or structures by burning on the premises or in the immediate vicinity without having first notified and obtaining permission from the fire department.
- (c) No person, firm or corporation shall kindle or maintain any open fire or authorize any such fire to be kindled or maintained on any private land without first having obtained permission from the fire department. The burning of refuse or materials that smolders or gives off noxious odors is prohibited.
- (d) The chief of the fire department may prohibit any and all outdoor fires when atmospheric conditions or local circumstances make such fires hazardous.
- (e) The burning of leaves, brush, pine straw or building materials that is permitted shall be at least fifteen (15) feet from any structure and the fire shall be constantly attended by a competent person until such fire is extinguished; that it shall be required before any fire is ignited that there shall be a water hose with sufficient water to control such fire and before leaving the area of the fire, water shall be applied to the burned area in sufficient quantity to assure it is extinguished.
- (f) The provisions of this section are severable, and if any sentence, section or other part of this section should be found to be invalid, such invalidity shall not affect the remaining provisions, and the remaining provisions shall continue in full force and effect.
- (g) Any person, firm or corporation violating any provision of the ordinance shall be guilty of a misdemeanor and punished or fined in the discretion of the court as by law provided.

## **FIRE AND PROTECTION AND PREVENTION**

**Secs. 6-4 – 6-15. Reserved.**

### **ARTICLE II. FIRE DEPARTMENT\***

#### **Sec. 6-16. Establishment and duties of bureau of fire prevention.**

- (a) The Fire Prevention Code, adopted as provided in section 6-31, shall be enforce by the bureau of fire prevention which bureau is hereby established and which shall be operated under the supervision of the chief of the fire department.
- (b) The chief of the fire department, with the approval of the town council, shall designate an officer or member of the fire department, who shall hold this office at the pleasure of the chief of the fire department and the town council.

#### **Sec. 6-17. Interfering with firemen.**

No person shall obstruct or interfere with any member of the fire department or the work of the fire department at or during a fire or while answering an alarm of fire, except where otherwise specially provided.

**Secs. 6-18 – 6-30. Reserved.**

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\*Cross references – Officers and employees, ss 2-71 et seq.; members of the volunteer fire department exempt from purchasing town motor vehicles license tag, ss 10-19.

State law references – Duties of fire chief, G.S. ss160A-292; investigation of fires, inspection of premises, G.S. ss 69-1 et seq.; interference with firemen, G.S. ss 69-39; dangerous material removed from premises, G.S. ss 69-4; red lights on vehicles, G.S. ss 20-130.1

### **ARTICLE III. FIRE CODE\***

#### **Sec. 6-31. Adopted.**

The 1982 edition of the Fire Prevention Code, published by the American Insurance Association is hereby adopted by reference. A copy of the code is on file in the office of the clerk.

State law reference – Technical codes, G.S. ss 160A-76.

#### **Sec. 6-32. Amendments.**

- (a) Wherever the word municipality is used in the Fire Prevention Code, it shall be held to mean the Town of Sandy Creek, North Carolina.
- (b) Wherever the term corporation is used in the Fire Prevention Code, it shall be held to mean the town attorney.

Cross reference – Definitions and rules on construction generally, ss 1-2.

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\*State law references – Investigation of fires and inspection of premises, G.S. ss 69-1 to 69-7; state volunteer fire department, G.S. ss 69-14 to 69-25; safety precaution in hotels, G.S. ss 69-4 to 69.38; power of the town to restrict, regulate and prohibit the keeping, use, etc., of explosives, inflammable substances, etc., see G.S. ss 160A-183.



**CHAPTER 7**

**GARBAGE AND TRASH**

**RESERVED**

## **CHAPTER 8**

### **LICENSES AND BUSINESS REGULATIONS**

#### **RESERVED**

## **ORDINANCE 88-10**

### **CHAPTER 9**

#### **MISCELLANEOUS OFFENSES\***

##### **Sec. 9-1. Unlawful assemblies.**

Any two (2) or more persons who shall assemble together, or being assembled, shall act in concert to do any unlawful act with force and violence, against the property of the town or the person or property of another or against the peace or to the terror of others or who shall make any movement or preparation thereof and every person present at such meeting who shall not endeavor to prevent the commission or perpetration of such unlawful act shall be guilty of a misdemeanor.

##### **Sec. 9-2. Injuring, etc., property.**

- (a) It shall be unlawful for any person to deface any building fence, sign, lamppost, or other property, belonging to the town or to property holders of the town, by cutting, breaking, dabbling with paint or other substances, hitching horses or other animals or in any manner defacing or tearing or injuring the same.
- (b) No person shall willfully destroy, injure, carry away, break, or deface any ornament, street sign, lamp, railing, fixture, gate, seat, bench, swing, fountain, tools, machinery, or structure, pull any flowers or cut or injure in any way any tree, shrub, plant, vine, or any other property belonging to the town within or upon any of its streets, plazas or parks. This paragraph shall not apply to the employees or officers of the town actually and necessarily engaged in the discharge of the duties of this office or employment.

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**State law references** – Prohibited from enacting ordinance on crimes the elements of which are identical to state law, G.S. 160A-174(6); criminal law, G.S. Ch. 14; punishment for violation of ordinances, G.S. 14-4.

This Section is being adopted and will replace Sections 9-3 & 9-5 currently entitled "Discharging Weapons" and "Discharging Firearms"

**Sec. 9-3 Discharging firearms generally**

It shall be unlawful for any person to fire a gun, rifle, pistol or other firearm within the town, except in case of self-defense or necessity. Any violation of this section shall constitute a misdemeanor. This section shall not apply to:

- (1) An officer lawfully discharging his duty.
- (2) Licensed shooting galleries.
- (3) Trap shooting at such places and under such conditions as may be approved by the town council.
- (4) A person acting within the scope of a limited permit which may be issued by the chief of police only after the local wildlife protector has certified that a bird or animal is committing a depredation of the person's property and is likely to be injurious to health. Any permit issued will specifically limit the time of use, type of weapon and kind of bird or animal committing the depredation, and will impose other limitations if necessary to assure the safety of any action taken under this provision.

**Sec. 9-3. Injuring apparatus or property of fire department.**

Except as otherwise provided, any person who shall injure, break, destroy, deface, or carry away any of the apparatus, equipment, or implements belonging to the fire department shall be guilty of a misdemeanor.

**Sec. 9-4. Discharging Weapons.**

It shall be unlawful for any person to shoot any crossbows, bow & arrows, air rifle, air gun, air pistol, gas pistol, or gas gun within the town. Nothing herein shall be construed to prohibit licenses shooting galleries for guns at indoor shooting ranges that have met the safety regulations set forth by the National Rifle Association and that such shooting range or gallery is at all times under the supervision of a qualified instructor.

**Sec. 9-5. Discharging Firearms.**

It shall be unlawful for any person to fire a gun, rifle, pistol, or other firearm within the town except in case of self-defense or necessity. This section shall not apply to an officer lawfully discharging his duty. Nothing herein shall be construed to prohibit trap shooting at such places and under such conditions as may be approved by the town council.

State law references – Similar provisions, G.S. 14-277 et seq.

## RESOLUTION TO ADOPT AND REPLACE

**WHEREAS**, the Town Council of Sandy Creek shall under G.S. 160D-75 adopt and replace Section 9-3 and 9-5 currently entitled "Discharging Weapons" and "Discharging Firearms". And

**WHEREAS**, the Town Council has, by due notice of advertisement, held a Public Hearing on adopting and replacing verbiage of Sec. 9-3. and

**WHEREAS**, the purpose is to add "It shall be unlawful for any person to fire a gun, rifle, pistol or other firearm within the town, except in case of self-defense or necessity. Any violation of this section shall constitute a misdemeanor". and

**WHEREAS**, the Town Council finds the modifications to meet the standards of G.S. 160D-601, and

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Council of Sandy Creek,

On this day of April 7, 2025, Sec. 9-3 Discharging Firearms shall be adopted.



Mel Miller, Mayor

ATTEST



Sabra Child, Town Clerk



## Chapter 10

### MOTOR VEHICLES AND TRAFFIC\*

- Art. I. In General, ss 10-1 – 10-15**
- Art. II. Licenses and Registration of Motor Vehicles, ss 10-16 – 10-40**
- Art. III. Traffic Control Devices, ss 10-41 – 10-61**
- Art. IV. Operation of Vehicles, ss 10-62 – 10-120**
  - Div. 1. Generally, ss 10-62 – 10-80
  - Div. 2. Speed Limits, ss 10-81 – 10-96
  - Div. 3. Rules of the Road, ss 10-97 – 10-120
- Art. V. Traffic Control on Specific Streets, ss 10-121 – 10-200**
  - Div. 1. Generally, ss 10-121 – 10-135
  - Div. 2. Through Streets, ss 10-136 – 10-145
  - Div. 3. Stop Streets, ss 10-146 – 10-160
  - Div. 4. Yield Right-of-Way Streets, ss 10-161 – 10-175
  - Div. 5. One-Way Streets, ss 10-176 – 10-200
- Art. VI. Stopping, Standing and Parking, ss 10-201 – 10-275**
  - Div. 1. Generally, ss 10-201 – 10-221
  - Div. 2. Parking Rules, ss 10-222 – 10-245
  - Div. 3. Parking Spaces for Commercial Vehicles, ss 10-246 – 10-260
  - Div. 4. Parking Spaces for the Disabled, ss 10-261 – 10-275
- Art. V. Motorcycles, Motorized Bicycles and Bicycles, ss 10-276 – 10-307**
  - Div. 1. Generally, ss 10-276 – 10-290
  - Div. 2. Bicycles, ss 10-291 – 10-307

### ARTICLE I. IN GENERAL

#### Sec. 10-1. Definitions.

The words and phrases when used in this chapter shall, for the purposes of this chapter, have meanings respectively ascribed to them by G.S. ss 20-4.01, except in those instances where otherwise specially provided or where the context clearly indicates a different meaning.

(Code 1973, ss 14-2)

**Cross reference** – Definitions and rules of construction generally, ss 1-2.

**\*Cross reference** – Animals, Ch. 4; buildings and building regulations, Ch. 5; requirements for moving buildings, ss 5-156 et seq.; fire protection and prevention, Ch. 6; garbage and trash, Ch. 7; miscellaneous offenses, Ch. 9; obstructing hydrants prohibited, ss 6-2; certain noises prohibited, ss 11-31 et seq.; parks and recreation, Ch. 12; police, Ch. 13; streets, sidewalks and other public places, Ch. 14; subdivisions, Ch. 15; vehicles for hire, Ch. 18; zoning, Ch. 19; taxicab operators license required, ss 18-46; taxicab drivers permit required, ss 18-66.

**State law references** – Motor vehicles and traffic generally, G.S. Ch. 20; authority of city relative to traffic, G.S. ss 20-169; streets, traffic and parking, G.S. ss 160A-296 et seq.

**Sec. 10-2. Compliance with chapter.**

It shall be unlawful for any person to do any act forbidden in this chapter, or fail to perform any act required in this chapter.  
(Code 1973, ss 14-2)

**Secs. 10-3 – 10-15. Reserved.**

**ARTICLE II. LICENSE AND REGISTRATION OF  
MOTOR VEHICLES\***

**Secs. 10-16 thru 10-40. Reserved.**



### **ARTICLE III. TRAFFIC DEVICES\***

**Sec. 10-41 thru 10-61. Reserved.**

## **ARTICLE IV. OPERATION OF VEHICLES**

### **DIVISION 1. GENERALLY**

#### **Sec. 10-62. Boarding, etc., vehicle in motion prohibited.**

It shall be unlawful for any person to board or alight from any vehicle which such vehicle is in motion.

#### **Sec. 10-63. thru 10-80. Reserved.**

## **ARTICLE IV. OPERATION OF VEHICLES**

### **DIVISION 2. SPEED LIMITS**

#### **Sec. 10-81. Speed Restrictions.**

- (a) No person shall drive a vehicle on a street at a speed greater than is reasonable and prudent under the conditions then existing.
- (b) Where no special hazard exist the speed limits in this division shall be lawful, but any speed in excess of these limits shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful.

#### **Sec. 10-82. Speed Limits – Thirty (30) mph.**

It shall be unlawful to operate a vehicle in excess of Thirty (30) miles per hour upon the streets or portion of streets listed below, not a part of the State Highway system:

- 1) Sandy Creek Drive
- 2) Grainger Circle
- 3) Robin Lane
- 4) Joe Baldwin Drive
- 5) Hickory Drive
- 6) Dogwood Circle

#### **Sec. 10-83 thru 10-96. Reserved.**

**(Ord. of 10-17-88)**

**State Law Reference – Speed Restrictions, G.S. 20-141**

### **DIVISION 3. RULES OF THE ROAD**

**Sec. 10-97 thru 10-120. Reserved.**

## **ARTICLE V. TRAFFIC CONTROL ON SPECIFIC STREETS**

### **DIVISION 3. STOP STREETS**

#### **Sec. 10-146. Enumeration of Stop Intersections.**

The intersection described in this section is hereby declared to be stop intersections, when entered from the streets first named. The direction of travel is shown in parentheses. When West is indicated for example, vehicle is westbound in that intersection.

- 1) On Sandy Creek Drive at Grainger Circle (North)
- 2) On Sandy Creek Drive at U.S. 74-76 (North)
- 3) On Robin Lane at Sandy Creek Drive (South)
- 4) On Grainger Circle at Sandy Creek Drive (West)
- 5) On Joe Baldwin Drive at Grainger Circle (West)
- 6) On Hickory Drive at Joe Baldwin Drive (South)
- 7) On Dogwood Circle at Dogwood Circle (East)

#### **Sec. 10-147. Duty of driver.**

Except as otherwise provided in this article, the driver of every vehicle proceeding on the avenue first designated in section 10-146 shall, immediately before crossing or entering the second avenue designated in such section, bring his vehicle to a complete stop and, upon crossing or entering such second designated avenue, shall yield the right-of-way to vehicles approaching thereon.

#### **Sec. 10-148. Signs.**

The chief of police is hereby authorized and directed to cause stop signs to be installed at the intersections enumerated in section 10-146.

#### **Sec. 10-149 – 10-160. Reserved.**

## **MOTOR VEHICLES AND TRAFFIC**

### **DIVISION 4. YIELD RIGHT-OF-WAY STREETS**

#### **Sec. 10-161. Yield right-of-way intersections, enumeration.**

The intersections described in this section are hereby declared to be yield right-of-way intersections, when entered from the avenue first named.

ON HICKORY DRIVE at JOE BALDWIN DRIVE and DOGWOOD CIRCLE SOUTH.

#### **Sec. 10-162. Signs**

The chief of police is hereby authorized and directed to cause to be erected and installed, at and near the avenue intersection enumerated in section 10-161, yield right-of-way signs, which signs shall govern the vehicular traffic at such intersections in the manner provided for in G.S. section 20-158.1.

#### **Sec. 10-163 – 10-175. Reserved.**

### **DIVISION 5. ONE-WAY STREETS**

#### **Sec. 10-176. Movement of vehicular traffic when signs are erected.**

When signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited, vehicular traffic shall move only in the indicated direction.

#### **Sec. 10-177 – 10-200. Reserved.**

## **ARTICLE VI – STOPPING, STANDING AND PARKING**

### **DIVISION 1. GENERALLY**

**Sec. 10-201 thru 10-221. Reserved.**

### **DIVISION 2. PARKING RULES**

**Sec. 10-222 thru 10-228. Reserved.**

**Sec. 10-229. Parking Prohibited at all times.**

- (a) It shall be unlawful for any person at any time to park or leave standing any vehicle upon the streets or right-of-way of the Town of Sandy Creek, North Carolina.
- (b) It shall be unlawful for any person at any time to park or leave standing any vehicle upon the shoulder of U.S. Highway 74-76, three hundred (300) feet westward and three hundred (300) feet eastward of Sandy Creek Drive and U.S. Highway 74-76.

**Sec. 10-230 thru 10-245. Reserved.**

**DIVISION 3. PARKING SPACES FOR  
COMMERICAL VEHICLES**

**Sec. 10-246 thru 260. Reserved.**



**DIVISION 2. BICYCLES**

**Sec. 10-291 thru 10-307. Reserved.**

## **CHAPTER 11**

### **NUISANCES\***

**Art. I. In General, ss 11-1 – 11-15**

**Art. II. Weeds, Weed Growth, Trash, Garbage, Refuse and Debris, ss 11-16 – 11-30**

**Art. III. Noise, ss 11-31 – 11-55**

**Art. IV. Removal and Disposition of Abandoned, Nuisance and Junked Motor Vehicles, ss 11-56 – 11-70.**

#### **ARTICLE I. IN GENERAL**

**Sec. 11-1 – 11-15. Reserved.**

#### **ARTICLE II. WEEDS, WEED GROWTH, TRASH, GARBAGE, REFUSE AND DEBRIS**

**Sec. 11-16. Nuisances declared; enumeration.**

The existence of any of the following conditions on any lot or other parcel of land within the corporate limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

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**\*Cross reference** – Administration, Ch. 2; animals, Ch. 4; dogs prohibited from running at large in the town; ss 4-16; buildings and building regulations, Ch. 5; minimum housing code, ss 5-106 et seq.; fire protection and prevention, Ch. 6; garbage and trash, Ch. 7; yard sales, ss 8-17 et seq.; masseuse, masseurs and massage establishments, ss 8-26 et seq.; peddling and soliciting, ss 8-81 et seq.; miscellaneous offenses, Ch. 9; grass and weeds on sidewalk, gutters, etc., to be removed, ss 14-51; removal of all grease, oil, etc., from sidewalks required, ss 14-52; parks and recreation, Ch. 12; police, Ch. 13; streets, sidewalks and other public places, Ch. 14; subdivisions, Ch. 15; vehicles for hire, Ch. 18; zoning, Ch. 19.

**State law references** – Authority to abate public health nuisance, G.S. ss 160A-193; authority to remove and dispose of junked and abandoned motor vehicles, G.S. ss 160A-303.

**State law reference** – Authority to prohibit and dispose of abandoned and junked motor vehicles, G.S. ss 160A-303.

- (1) The uncontrolled growth of noxious weeds or grass to a height in excess of six (6) inches causing or threatening to cause a hazard detrimental to the public health or safety, including fallen trees and tree damage caused by storms;
- (2) Any accumulation of waste, animal or vegetable, such as but not limited to waste material and refuse from kitchens, residences, grocery stores, butcher shops, restaurants, cafes, hotels, rooming houses and boarding houses, and all other deleterious substances that are offensive by virtue of odors, vapors or by the inhabitation therein of rats, mice, snakes or vermin of any kind which are or may be dangerous or prejudicial to the public health;
- (3) Any accumulation of rubbish, garbage, trash, or any material of any kind that has been discarded, rejected, cast aside, stored or thrown away as worthless or junk causing or threatening to cause a fire hazard or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind which are or may be dangerous or prejudicial to the public health;
- (4) Any accumulation of trash, rubbish such as tin cans, paper, boxes, glass, wood, shrubs, yard clippings, leaves, tree trimmings and other deleterious substances on the premises of private residences, commercial institutions and in the streets which greatly increases the danger of fire and spread of infections, contagious and epidemic diseases, shall constitute a public menace and nuisance;
- (5) Any accumulation of construction or demolition debris such as bricks, concrete, lumber, scrap lumber, ashes, dirt, plaster, or large chunks or metal, such as automobile bodies, frames, stoves, refrigerators, beams or other metal materials shall not be stored, kept or placed upon any property unless prior arrangement for collection of such materials have been made and approved by the town;
- (6) Any accumulation of abandoned or deteriorated structure such as boats, dog houses, storage sheds or the like which greatly increase the danger of fire and spread infections, contagious and epidemic diseases shall constitute a public menace and nuisance;

- (7) Any condition detrimental to the public health which violates the rules and regulations of the county health department.

**Sec. 11-17. Complaint; investigation.**

The building inspector, upon notice from any person of the existence of any of the conditions described in section 11-16, shall cause to be made by the appropriate county health department official, or town official, such investigation as may be necessary to determine whether in fact such conditions exist as to constitute a public nuisance as declared in such section.

**Sec. 11-18. Notice to abate.**

Upon a determination that such conditions constituting a public nuisance exist, the building inspector shall notify, in writing, the owner, occupant, or person in possession of the premises in question of the conditions constituting such public nuisance and shall order the prompt abatement thereof within fifteen (15) days from the receipt of such written notice.

**Sec. 11-19. Abatement by town – Upon failure of owner.**

If any person, having been ordered to abate such a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within fifteen (15) days from receipt of said order, the building inspector or his designee shall seek town council approval to cause said condition to be removed or otherwise remedied by having employees of the town or other designated persons to go upon said premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the town council.

**Sec. 11-20. Same – Costs charged to owner.**

The actual cost incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of such lot or parcel of land and it shall be the duty of the finance department to mail a statement to such charges to the owner or other person in possession of such premises with instructions that such charges are due and payable within thirty (30) days from the receipt thereof. In addition to the actual contract cost, there shall be added an administrative overhead fee, such fee shall be determined by the town council.

**Sec. 11-21. Same – Unpaid charges become a lien.**

If charges for the removal or abatement of a public nuisance are not paid within thirty (30) days after the receipt of a statement or charges as provided for in section 11-20, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. section 160A-193.

**Sec. 11-22. Additional remedies.**

The procedure set forth in this article shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this article shall be prevent the town from issuing a civil citation and proceeding under sections 1-14, 15 of this Code or proceeding in a criminal action against any person violating the provisions of this article as provided in G.S. section 14-4.

**Secs. 11-23 – 11-30. Reserved.**

**Sec. 11-23. Litter Prohibited.**

It shall be unlawful for any person to litter by throwing, placing, or leaving, or causing to be placed or left temporarily or permanently, any trash, refuse, garbage, paper, or cups on any street, right-of-way or within the municipal limits of the town, except and unless such trash, refuse, garbage, paper, or cups is placed in a designated location or container for removal by a specific garbage or trash service collector.

**Sec. 11-24 – 11-30. Reserved.**

## Nuisances

### ARTICLE III. NOISE\*

#### Sec. 11-31. Certain noises prohibited.

- (a) The creation and continuation of any loud, disturbing and unnecessary noises in the town is hereby prohibited. It shall be unlawful for any person to cause, make or contribute to creating any loud or disturbing noise of such character, intensity or duration as to be detrimental to the life or health of any individual, or such noises as disturb the quiet and peace of any person of the town.
- (b) The following acts, among others, are declared to be loud, disturbing, annoying and unnecessary in violation of this section, but such enumeration shall not be deemed to be exclusive:
  - (1) *Blowing horns.* The sounding or blowing of any horn or signal device on any automobile, motorcycle, motorbus or other vehicle, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal; the creation by means of any signal device of any loud or harsh noise, and the sounding of such device for any unnecessary or unreasonable period of time.
  - (2) *Radios, phonographs, etc.* The playing of any radio, phonograph, piccolo or any musical instrument in such manner or with such volume as to annoy or disturb any person, or disturb the quiet, comfort or repose of any person in any dwelling, hotel or other residence.
  - (3) *Pets.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.
  - (4) *Use of vehicle.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded, or used or repaired in such manner, as to create loud or unnecessary noises, particularly grating, grinding, rattling, riveting or other disturbing noises.

\*Cross references – Parks and recreation, Ch. 12; streets, sidewalks and other public places, Ch. 14; motor vehicles and traffic, Ch. 10; vehicles for hire, Ch. 18; zoning, Ch. 19.

State law reference – Authority to regulate noise, G.S. ss 160A-184.

- (5) *Blowing whistles.* The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger.
- (6) *Exhaust discharge.* To discharge into the open air the exhaust from any steam engine, stationary internal combustion engine, motorboat engine or motor vehicle. Except through a muffler or other device which will effectively prevent loud or explosive noises there from.
- (7) *Devices using compressed air.* The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled and reduced.
- (8) *Building operations.* The erection including excavation, demolition, alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 6:00 p.m., on week days, except in cases of urgent necessity in the interest of public safety and then only with a permit from the town.
- (9) *Noises near schools, hospitals, churches, etc.* The creation of any excessive noises on any street adjacent to any school, institution of learning, library, sanatorium, hospital or court, while the same is in session, or adjacent to any church during church services, which interferes with the work or worship in any such place or institution; provided, that signs must be displayed in such streets indicating that the same is a school, hospital, church, library, sanatorium or court.
- (10) *Loading and unloading operations.* The creation of loud and excessive noises in connection with loading or unloading any vehicle, or repairing any vehicle, or operating and destroying bales, boxes, crates and containers.
- (11) *Bells or gongs.* The sounding of any bell or gong attached to any building or premises which disturb the quiet or repose of any person in the vicinity thereof.
- (12) *Hawking, peddling or soliciting.* Shouting, loud talking, crying or soliciting by peddlers, hawkers, taxi drivers, solicitors and vendors, which disturbs the quiet and peace of the neighborhood, or any person in there.



- (13) *Noises to attract attention.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance or event, show, sale or the display or advertisement of merchandise by the creation of noise.
- (14) *Loudspeakers or amplifiers on vehicles.* The use of any mechanical loudspeaker or amplifiers on trucks, airplanes or other vehicles for advertising or other purposes except by operating and licensed business and advertising firms during weekdays other than Sunday between the hours of 8:00 a.m. and 8:00 p.m., after first obtaining a permit from the town council. Any other person desiring to use such equipment shall before using the same first obtain a permit for such use from the town council. In the operation of such equipment not more than twenty (20) watts power shall be used.
- (15) *Business noises at night near residences.* The operation of any garage, filling station, auto repair business, taxi business, plant, store, factory or other place of business, between the hours of 8:00 p.m. and 7:00 a.m., in such manner as to create loud and disturbing noises, of such frequency or [volume as to annoy or disturb] any citizen, and particularly the creating of disturbing noises of such frequency and volume as to annoy or disturb the quiet, comfort, peace or repose of any person in any dwelling, hotel, boardinghouse or other type of residence.

**Sec. 11-32. Penalty**

Any violations of this Article shall subject the offender to a civil penalty in the amount of Fifty (\$50.00) dollars by the issuance of a civil citation which must be paid within seventy-two (72) hours after receipt of same and each day any such violation continues shall constitute a separate offence for which a civil citation may be issued by the Police Department.

**Sec. 11-33 – 11-55. Reserved.**

ARTICLE IV. REMOVAL AND DISPOSITION OF  
ABANDONED NUISANCE AND JUNKED MOTOR  
VEHICLES\*

**Sec. 11-56. Administration.**

The police department and town building inspector of the town shall be responsible for the administration and enforcement of this chapter. The police department shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the town, and on property owned by the town. The town building inspector shall be responsible for administering the removal and disposition of "abandoned", "nuisance" or "junked motor vehicles" located on private property. The town may, on an annual basis, contract with private tow truck operators or towing business to remove, store, and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this chapter and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority or powers of officers of the town police department and fire department in enforcing other laws or in otherwise carrying out their duties.

**Sec. 11-57. Definitions.**

For purpose of this chapter, certain words and terms are defined as herein indicated:

*Abandoned vehicle.* As authorized and defined in G.S. section 160A-303, and abandoned motor vehicle is one that:

- (1) is left upon a public street or highway in violation of a law or ordinance prohibiting parking; or
- (2) is left on a public street or highway for longer than seven (7) days; or

## NUISANCES

- (3) Is left on property owned or operated by the town for longer than twenty-four (24) hours; or
- (4) Is left on private property without consent of the owner, occupant or lessee thereof, for longer than two (2) hours.

*Authorizing official.* The supervisory employee of the police department or the town building inspector respectively, designated to authorize the removal of vehicles under the provisions of this chapter.

*Motor vehicle or vehicle.* All machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

*Junked motor vehicle.* As authorized and defined in G.S. section 160A-303.2 the term, junked motor vehicle means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five (5) years old and appears to be worth less than one hundred dollars (\$100.00)

*Nuisance vehicle.* A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or
- (2) A point of heavy growth or weeds or other noxious vegetation over eight (8) inches in height; or
- (3) A point of collection of pools of water; or
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor; or
- (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, etc.; or

- (6) So situated or located that there is a danger of it falling or turning over; or
- (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrefied matter of any kind; or
- (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the town council.

**Sec. 11-58. Abandoned vehicle unlawful; removal authorized.**

- (a) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined herein.
- (b) Upon investigation, proper authorizing officials of the town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

**Sec. 11-59. Nuisance vehicle; removal authorized.**

- (a) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.
- (b) Upon investigation, the town building inspector may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.

**Sec. 11-60. Junked motor vehicle regulated; removal authorized.**

- (a) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

- (b) It shall be unlawful to have more than one (1) junked motor vehicle, as defined herein, on the premises of public or private property. Single, permitted junked motor vehicle must strictly comply with the location and concealment requirements of this section.
- (c) It shall be unlawful for any owner, person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to fail to comply with the location requirements or the concealment requirements of this section.
- (d) Subject to the provisions of subsection (e), upon investigation, the town building inspector may order the removal of a junked motor vehicle as defined in this chapter after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among other relevant factors may be considered:
  - (1) Protection of property values;
  - (2) Promotion of tourism and other economic development opportunities;
  - (3) Indirect protection of public health and safety;
  - (4) Preservation of the character and integrity of the community; and
  - (5) Promotion of the comfort, happiness and emotional stability of area residents.
- (e) Permitted concealment or enclosure of junked motor vehicles:
  - (1) One (1) junked motor vehicle, in its entirety, can be located in the rear yard as defined by the town's zoning ordinance if the junked motor vehicle is entirely concealed from the public view from a public street and from abutting premises by an acceptable covering.

The town building inspector has the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision. The covering must remain in good repair and must not be allowed to deteriorate. The covering or enclosure must be compatible with the objectives stated in the preamble of this article.

- (2) More than one (1) junked motor vehicle. Any other junked motor vehicle(s) must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicle(s) cannot be seen from a public street or abutting property. A garage or building structure erected pursuant to the lawful issuance of a building permit and which has been constructed in accordance with all zoning and building code regulations.

**Sec. 11-61. Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirements.**

Except as set forth in section 11-62 below, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice(s) shall retain a written record to show the name(s) and the address(es) to which mailed, and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the town on a specified date (no sooner than seven (7) days after the notice is affixed).

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The notice shall state that the vehicle will be removed by the town on a specified date, no sooner than seven (7) days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

With respect to abandoned vehicles on private property, nuisance vehicles and junked motor vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal determination that the vehicle is abandoned, a nuisance or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, such appeal shall be made to the council in writing, heard at the next regularly scheduled meeting of the council, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

### **Sec. 11-62. Exceptions to prior notice requirement.**

The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the authorizing official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include:

- (1) Vehicles abandoned on the streets. For vehicles left on the public streets and highways, the police department hereby determines that immediate removal of such vehicles may be warranted when they are:
  - a. Obstructing traffic;
  - b. Parked in violation of an ordinance prohibiting or restricting parking;
  - c. Parked in a no-stopping or standing zone;
  - d. Parked in loading zones;
  - e. Parked in bus zones; or
  - f. Parked in violation of temporary parking restrictions imposed under code sections.



- (2) Other abandoned or nuisance vehicles. With respect to abandoned or nuisance vehicles left on town-owned property other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

**Sec. 11-63. Removal of vehicles; post-towing notice requirements.**

Any abandoned, nuisance or junked motor vehicle which has been ordered removed may, as directed by the town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the town. Whenever such a vehicle is removed, the authorizing town official shall immediately notify the last known registered owner of the vehicle, such notice to include the following:

- (1) The description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to redeem the vehicle; and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

The town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in subsections (1) through (5) above, shall also be mailed to the registered owner's last known address unless this notice is waived in writing by the vehicle owner or his agent.

## **NUISANCES**

If the vehicle is registered in North Carolina, notice shall be given within twenty-four (24) hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within seventy-two (72) hours from the removal of the vehicle.

Whenever an abandoned, nuisance or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorizing town official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information set forth in subsections (1) through (5) above.

### **Sec. 11-64. Right to probable cause hearing before sale or final disposition of vehicle.**

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated by the child district court judge to receive such hearing requests. The magistrate will set the hearing within seventy-two (72) hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. section 20-222, as amended.

### **Sec. 11-65. Redemption of vehicle during proceedings.**

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the town truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this article.

**Sec. 11-66. Sale and disposition of unclaimed vehicle.**

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such vehicle shall be carried out in coordination with the city and in accordance with Article 1 of Chapter 44A of the North Carolina General Statutes.

**Sec. 11-67. Conditions on removal of vehicles from private property.**

As a general policy, the town will be removing a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the town from private property without written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the town building inspector. The town may require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the town against any loss, expense or liability incurred because of the removal, storage, or sale thereof.

**Sec. 11-68. Protection against criminal or civil liability.**

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of such vehicle as provided in this chapter.

## **NUISANCES**

### **Sec. 11-69. Exceptions.**

Nothing in this chapter shall apply to any vehicle: (1) which is located in a bona fide "automobile graveyard" or "junkyard" as defined in N.C.G.S. 136-143, in accordance with the "Junkyard Control Act", N.C.G.S. 136-141, et seq.; (2) which is an enclosed building; (3) which is on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or (4) which is in an appropriate storage place or depository maintained in a lawful place and manner by the town.

### **Sec. 11-70. Unlawful removal of impounded vehicle.**

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town any vehicle which has been impounded pursuant to the provisions of this code unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

State law reference – Similar provisions, G.S. ss 160A-303.

## **Chapter 12**

### **PARKS AND RECREATION**

**Sec. 12-1 – 12-75. Reserved.**

## CHAPTER 13

### POLICE

That the Code of the Town of Sandy Creek, North Carolina is hereby amended by adding a chapter to be numbered thirteen which reads as follows.

**Art. I. In General, 13-1 – 13-15.**

**Art. II. Police Department, 13-16 – 13-40.**

**Div. 1. Generally, 13-16 – 13-31.**

**Div. 2. Police Auxiliary Unit, 13-32 – 13-40.**

#### ARTICLE I. IN GENERAL

**Sec. 13-1.**

There is hereby established within the Town of Sandy Creek a police department composed of a chief of police and the department may be composed of as many members as may from time to time be determined by the Town council for the purpose of enforcing the laws of the land including municipal ordinances applicable thereto.

**Sec. 13-2 – 13-15. Reserved.**

#### ARTICLE II. POLICE DEPARTMENT

##### DIVISION 1. GENERALLY

**Sec. 13-16 – 13-31. Reserved.**

##### DIVISION 2. POLICE AUXILIARY UNIT

**Sec. 13-32. Established.**

There is hereby established within the town police department an auxiliary police unit. The auxiliary police unit shall be a volunteer organization composed of as many members as may from time to time be determined by the chief of police and the town council.

**Sec. 13-33. Authority of chief of police; appointment and removal of members.**

The auxiliary police unit shall be under the direct control of the Chief of Police, acting under the general supervision of the Public Safety Officer. All appointments and removals of members of the auxiliary police unit shall be made by the chief of police after conferring with the Town Council and complying with town policy or grievance procedures.

**Sec. 13-34. Members; qualifications, oath and training of members.**

Each member of the auxiliary police unit shall meet or exceed those qualifications of a regular police officer as outlined by the State Criminal Justice Training and Standards Commission as authorized by G.S. Chapter 17C law enforcement officers and shall take the oath of office of a regular law enforcement officer. The chief of police shall provide for adequate training for members of the auxiliary police unit and of candidates for membership therein.

**Sec. 13-35. Duties.**

The duties of the auxiliary police unit, subject at all times to the direction, supervision, and control of the chief of police, shall be to assist the regular officers of the police department in the enforcement of law and the maintenance of peace and order when called to active duty by the chief of police. The chief shall be order establish rules and regulations to govern the auxiliary police unit, to fix the specific duties of its members and to provide for the maintenance of discipline. Members of the auxiliary police unit shall obey the instructions of regular officers in carrying out their duties. The chief of police may prescribe other duties than those mentioned herein to be performed by the auxiliary police unit.

**Sec. 13-36. Identification card and insignia.**

An identification card and such other insignia or evidence of identify as the chief of police may prescribe shall be issued to each member of the auxiliary police unit who must carry the card and other identification at all times when on duty and who must surrender them upon termination of membership.

**Sec. 13-37. Carrying and use of firearms.**

No member of the auxiliary police unit will carry or use a firearm until he has completed firearms familiarization conducted by the department police firearms instructor. In addition, members of the auxiliary police unit shall be governed by the department's general order pertaining to the use of firearms.

**Sec. 13-38. Law enforcement powers.**

No member or members of the auxiliary police unit shall enforce or attempt to enforce any law except when they are on duty or called to be on duty.

**Sec. 13-39. Powers of arrest.**

Members of the auxiliary police unit shall have the same power of arrest as a regular police officer. This power may not be exercised unless the auxiliary officer is on active duty. When any member is called to active duty such order shall be immediately reduced to writing and filed with the town clerk.

**Sec. 13-40. Called to duty defined.**

A member of the auxiliary police unit is called to active duty when he is performing the duties of a law enforcement officer with the knowledge and consent of the chief of police.



## **Chapter 14**

### **STREETS, SIDEWALKS AND OTHER PUBLIC PLACES**

**Sec. 14-1 thru 14-13. Reserved.**

## **STREETS, SIDEWALKS AND PUBLIC PLACES**

### **Sec. 14-14. Barbed-wire fences.**

It shall be unlawful for any person to erect, construct or maintain on any premises along any street of the town any barbed wire or barbed-wire fences.

**Cross reference** – Fences, ss 5-141 et seq.

### **Sec. 14-15. Intentional interference with improvements.**

It shall be unlawful for any owners, occupant or tenant of any house or premises in the town to intentionally and willfully obstruct or intentionally and willfully permit to be obstructed any public sidewalk, right-of-way, or street, after having been notified to remove said obstruction for the purpose of installing improvements to sewers, water mains and all ordinary street improvements. Upon failure to immediately remove such obstruction, the town shall immediately have such obstruction or encroachment removed and the occupant, tenant or owner shall pay to the town the actual cost of the removal of such obstruction or encroachment in addition to any penalty and the cost of such removal, if not paid, shall constitute a lien against the property.

### **Sec. 14-16 – 14-65. Reserved.**

## **ARTICLE IV. EXCAVATIONS AND EMBANKMENTS**

### **Sec. 14-66. Permit required.**

It shall be unlawful for any person to dig any hole, ditch, and trench, make any excavation of any kind or make any embankments or to install pipes, culverts, or driveway into or on any street, right-of-way, alley, or utility right-of-way in the Town without first securing a permit therefore in writing from the Town. It shall be unlawful for anyone to allow an opening, excavation, or embankment to remain after a notification from the Town to remove such embankment or to properly repair such street, plaza, sidewalk, alley, or utility right-of-way.

### **Sec. 14-67. Permit application.**

- (a) Any person desiring a permit, as required in section 14-66, shall file as application with the Town. Such application shall describe the hole, ditch, trench, or excavation to be dug or the embankment to be made and shall indicate the street, plaza, sidewalk, alley, or utility right-of-way upon which the work is to be done. It shall contain such other information as may be required by the town.
- (b) Where application is made for permission to install pipes, culverts, or lines within the street right-of-way, the person applying for such permit shall submit with his application a plan showing the nature, extent, depth, location within the right-of-way of the proposed utility line, the location of existing utilities, and other specific information as may be required by the Town.

### **Sec. 14-68. Contents of application.**

A permit for the digging of any hole, ditch, trench, or excavation of any kind, or the making of any embankment in or on any street, street right-of-way sidewalk, plaza, alley, or utility right-of-way in the town issued pursuant to an application filed, as provided in Section 14-67, shall describe the work that is to be done pursuant to such permit and shall also include such other items and conditions as the Town may deem proper.

**Sec. 14-69. Bond or cash deposit.**

The Town may require as a prerequisite to the issuance of a permit that a satisfactory bond be filed or a cash deposit be made to cover the cost of replacing such street or sidewalk in as good condition in all respects as before excavating. Such estimated cost shall be furnished by the Town, the amount to be based on the extent of the proposed opening, cut or excavation, character of paving, etc., estimated per square yard.

**Sec. 14-70. Restoration of earth.**

- (a) When any part of any street right-of-way, alley, utility right-of-way or other public place in the Town shall be disturbed, dug up or taken up for any purpose, the person doing same shall immediately upon the completion of such purpose, and as fast as practical during the accomplishment thereof, return the earth, ram and water tamp or puddle the same to firm and solid bearing in such a manner as will entirely prevent settling of such earth in every case to the entire satisfaction of the Town.
- (b) When the excavation shall have been made in the traveled way of any street or alley which is unpaved, the person making such excavation shall be responsible for stabilizing and restoring the surface so that it may be traversed by vehicles in an efficient and safe manner, and to the satisfaction of the Town.
- (c) Where any person makes an excavation in the plaza of any street he shall be responsible for the restoration of the disturbed areas to the condition which exists prior to his excavation. Where the plaza is not grassed, he shall stabilize it to prevent under erosion under the direction of the Town. Where a plaza has sufficient quality and thickness of grass under the direction of the Town, he shall cut and restore the sod after the excavation is complete. Where the grass cover is not sufficient for efficient sodding under the direction of the Town, he shall fill, fertilize and seed, so as to sufficiently produce a grass cover.

**Sec. 14-71. Replacement of pavement.**

Paving disturbed or removed in any street or public place where openings have been made shall be rebuilt at the expense of the person making or causing such excavation. The Town shall, at the time application is made for a permit for an excavation in a paved surface, make arrangements satisfactory to the Town for the person making such cut to pay the cost of repair.

**Sec. 14-72. Guard rails and signal lights.**

It shall be unlawful for any person to make, or cause to be made, any excavation of any kind in the Town in or along or near any street or sidewalk without placing and maintaining proper guard rails and signal lights or other warnings at, in or around the same, sufficient to warn the public of such excavations and to protect all persons, using reasonable care, from accidents on account of the same.

**Sec. 14-73. Negligence in making when contiguous to street or sidewalk.**

No person shall make or, cause to be made, any excavation, on any lot contiguous to any street or sidewalk, so negligently made or maintained the same, by caving or otherwise, shall in any manner endanger or injure such street or sidewalk.

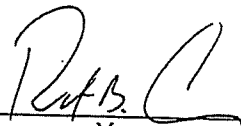
## ORDINANCE

That Chapter 14, Section 14-74 of Driveways, Culverts, and Walkways in the Code of the Town of Sandy Creek, North Carolina, is hereby amended to read as follows:

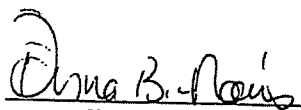
### Sec. 14-74. Driveways, Culverts, and Walkways.

Driveways are allowed by permit only. All driveways to be constructed using drainage culvert(s) of a minimum size of fifteen (15) inches in diameter and twenty (20) feet in length, culverts shall be Department of Transportation approved concrete reinforced pipe or corrugated metal with corrosive resistant bituminous coating. Excavation for and placement of culverts shall be inspected and approved for width, depth and drainage slope, which shall be in accord with the existing drainage conditions.

ADOPTED this the 14<sup>th</sup> day of January, 2008.

  
\_\_\_\_\_  
Mayor  
  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Town Clerk



## ORDINANCE

That the Code of Ordinances of the Town of Sandy Creek, North Carolina, is hereby amended by the addition of Section 14-75 DITCHES AND EMBANKMENTS which shall read as follows:

Sec. 14-75. Ditches and Embankments.

In order to preserve and maintain drainage of storm water flow in Sandy Creek, no person shall be allowed ingress or egress with any type of motor vehicle or pleasure vehicle across drainage ditches or embankments within the Town of Sandy Creek. All persons shall use driveways across the Town's right-of-way into their property.

Sec. 14-76 through 14-90. Reserved.

Adopted this the 12<sup>th</sup> day of August, 2002.

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Mayor

Attest:

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Town Clerk

## ARTICLE V. STREET NAMES

### Sec. 14-91. Duty of town with regard to street names.

- (a) It shall be the duty of the town to maintain by maps or listings of the official names of the streets within the town, as they may now exist or may be extended or renamed by the town council.
- (b) It shall be the duty of the building inspector from time to time to review the official street names of the town and recommend to the town council any changes in names which he feels are justified in order to permit clarity of street designation.
- (c) Based on his official record of street names, the building inspector shall review street names submitted for new subdivisions to insure that new street names are not duplicates of names already used.
- (d) From his official record, the building inspector from time to time shall issue listings of official street names for use by the various departments of the town and other interested persons and agencies.



# SUBDIVISIONS

## CHAPTER 15

### SUBDIVISIONS\*

State law references: Planning and development regulation jurisdiction, G.S. 160D-201 et seq.

Article I. In General – Reserved

Article II. Minor Developments – Reserved

Article III. Standards

Division 1. Generally

Sec. 15-1. Title.

Sec. 15-2. Purpose.

Sec. 15-3. Authority.

Sec. 15-4. Jurisdiction.

Sec. 15-5. Prerequisite to plat recordation.

Sec. 15-6. Thoroughfare plans.

Sec. 15-7. School sites on land use plan.

Sec. 15-8. Zoning and other plans.

Sec. 15-9. General procedure for plat approval.

Sec. 15-10. Statement of owner.

Sec. 15-11. Effect of plat approval on dedications.

Sec. 15-12. Penalties for violation.

Sec. 15-13. Separability.

Sec. 15-14. Reserved.

Sec. 15-15. Amendments.

Sec. 15-16. Abrogation.

Sec. 15-17. Administration.

Sec. 15-18. Effective date.

Sec. 15-19. Definitions.

Secs. 15-20 – 15-40. Reserved.

Division 2. Plat Approval

Sec. 15-41. Plat shall be required on any subdivision of land.

Sec. 15-42. Approval prerequisite to plat recordation.

Sec. 15-43. Procedures for review of major and minor subdivisions.

Sec. 15-44. Procedure for review of minor subdivisions.

Sec. 15-45. Final plat for minor subdivisions.

Sec. 15-46. Procedure for review of major subdivisions.

Sec. 15-47. Elements of the preliminary plan process.

Sec. 15-48. Preliminary plat submission and review.

Sec. 15-49. Final plat submission and review.

Sec. 15-50. Information to be contained in or depicted on preliminary and final plat.

Sec. 15-51. Recombination of land.

Sec. 15-52. Re-subdivision procedures.

Sec. 15-53. Appeals.

Sec. 15-54 – 15-70. Reserved.

## **SUBDIVISIONS**

### **Division 3. Design Standards**

- Sec. 15-71. Generally.
- Sec. 15-72. Suitability of land.
- Sec. 15-73. Name duplication.
- Sec. 15-74. Subdivision design.
- Sec. 15-75. Streets.
- Sec. 15-76. Utilities.
- Sec. 15-77. Buffering, recreation and open space requirements.
- Sec. 15-78. Other requirements.

### **ARTICLE I. IN GENERAL\* Reserved**

### **ARTICLE II. MINOR DEVELOPMENTS\* Reserved**

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\*State law references: Authority in areas of environmental concern, G.S. 113A-113 et seq.

### **ARTICLE III. STANDARDS\***

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\*State law references: Authority to regulate subdivisions, G.S. 160D-801 et seq.

### **DIVISION 1. GENERALLY\***

#### **Sec. 15-1. Title.**

This article shall be known and may be cited as the Subdivision Regulations of the Town of Sandy Creek, North Carolina, and may be referred to as the subdivision regulations.

#### **Sec. 15-2. Purpose.**

The purpose of this article is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of the town. It is further designed to provide for the orderly growth and development of the town; for the coordination of streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare. This article is designed to further facilitate adequate provision of water, sewerage, parks, schools, and playgrounds, and also to facilitate the further re-subdivision of larger tracts into smaller parcels of land.

## SUBDIVISIONS

### **Sec. 15-3. Authority.**

This article is hereby adopted under the authority and provisions of G.S. 160D-801 et seq.

### **Sec. 15-4. Jurisdiction.**

The regulations contained herein, as provided in G.S. Chapter 160D shall govern each and every subdivision within the town.

### **Sec. 15-5. Prerequisite to plat recordation.**

The Town Council shall approve each individual major and minor subdivision plat of land within the town's jurisdiction in accordance with G.S. 160D-803 as amended.

### **Sec. 15-6. Thoroughfare plans.**

Where a proposed subdivision includes any part of a thoroughfare which has been designated as such upon the officially adopted thoroughfare plan of the town, the Brunswick County Board of Commissioners or the North Carolina Department of Transportation, such part of the thoroughfare plan shall be platted by the sub divider in the location shown on the plan and at the width specified in this article by the town and/or the state department of transportation, as applicable.

### **Sec. 15-7. School sites on land use plan.**

If the town council and board of education have jointly determined the specific location and size of any school sites to be reserved and this information appears in the comprehensive land use plan, the planning board shall immediately notify the board of education whenever a sketch plan for a subdivision is submitted which includes all or part of a school site to be reserved. The board of education shall promptly decide whether it still wishes the site to be reserved. If the board of education does not wish to reserve the site, it shall so notify the planning board. If the board of education has not purchased or begun proceedings to condemn the site within 18 months, the sub divider may treat the land as freed of the reservation.

### **Sec. 15-8. Zoning and other plans.**

Similarly, proposed subdivisions must comply in all respects with the requirements of the zoning ordinance in effect in the area to be subdivided, and any other officially adopted plans.

**Cross references: Zoning, Ch. 19.**

## **SUBDIVISIONS**

### **Sec. 19-9. General procedure for plat approval.**

- (a) No major or minor subdivision plat of land within the town's jurisdiction shall be filed or recorded until it has been submitted to and approved by the Town Council as set forth in section 15-5, and until this approval is entered in writing on the face of the plat by the Town Council.
- (b) The Brunswick County Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the town that has not been approved in accordance with these provisions, nor shall the clerk of superior court order or direct the recording of a plat if the recording would be in conflict with this section.

### **Sec. 15-10. Statement of owner.**

The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the subdivision regulation jurisdiction of town.

### **Sec. 15-11. Effect of plat approval on dedications.**

- (a) Pursuant to G.S. 160D-806, the approval of a plat does not constitute or effect the acceptance by the town or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat and shall not be construed to do so.
- (b) Pursuant to G.S. 160D-806 the Town Council, by resolution, may accept the dedication of all lands and facilities for streets, parks, public utilities or other public purposes that have been approved by the planning board for public dedication when the lands or facilities are located within its subdivisions regulation jurisdiction and meets the town's requirements. The Town shall not accept the dedication of such lands and facilities until it determines, based upon recommendation of the planning and zoning board, that:
  - (1) All lands and facilities have been properly dedicated through recorded plats, deeds, or deeds of easements;
  - (2) All lands and facilities meet town standards and have been inspected and approved by the designee of the Town Council and/or affected departments of the town;
  - (3) The sub divider has requested that the lands and facilities be accepted as public; and
  - (4) The sub divider has provided a valuation of all lands and facilities to be dedicated to the town.

## SUBDIVISIONS

- (c) The acceptance of any lands and facilities by the town shall be subject to the following terms and conditions:
- (1) The acceptance by the town shall not be interpreted in any way to relieve any developer, contractor, subcontractor, insurance company, owner, or other person of his individual or several obligations under any ordinance, policy, or contract or to his individual or several obligations under any ordinance, policy, or contract or to otherwise reduce or eliminate the rights of the town, its agents and employees against any other party connected with or in any way related to the development of the subdivision and facilities. The acceptance shall not be interpreted as a waiver of any defense or immunities which the town, its agencies or employees may assert or be entitled to;
  - (2) All rights, privileges and warranties of whatsoever nature and kind, for equipment, supplies, materials, goods, and services shall be assigned to the town and any and all benefits derived there from shall inure to the town, its agents, and employees and the acceptance of the lands and facilities shall be conditioned upon the owners covenanting and warranting that they are lawfully seized and possessed of all the lands and facilities dedicated to the public; that they have good and lawful authority to dedicate the same to the public for the stated purpose; that the lands and facilities are free and clear of any deed of trust, mortgage, lien or assessments and that the dedicators for their heirs, successors, executors, administrators, and assigns, covenant that they will warrant and defend the dedication of such land and facilities against any and all claims and demands whatsoever;
  - (3) Acceptance of dedications of lands and facilities shall not obligate the town to construct, maintain, repair, replace, extend, improve, build or operate any public facilities or utilities, which are not in existence as of the date of the acceptance of and lands and facilities. Such acceptance shall not obligate the town to construct any main, line, pipe, lateral, or other extension or permit connection to the city's water, sanitary, sewer, storm sewer, drainage or other public utilities systems.

### **Sec. 15-12. Penalties for violation.**

- (a) After the effective date of this article, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this article, thereafter subdivides his land in violation of this article or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this article and recorded in the Office of the Brunswick County Register of Deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The town through its attorney or other official designated by the town council may enjoin illegal subdivision, transfer or

## **SUBDIVISIONS**

sale of land by action for injunction. Further, violators of this article shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. 14-4.

- (b) The violation of any provision of this article shall subject the offender to a civil penalty in the amount of \$500.00 to be recovered by the town. Violators shall be issued a written citation, which must be paid within ten days.
- (c) Each day's continuing violation of this article shall be a separate and distinct offense.
- (d) Nothing in this section shall be construed to limit the use of remedies available to the town. The town may seek to enforce this article by using any one, all, or a combination of remedies, including those authorized by G.S. 160D-404.

### **Sec. 15-13. Separability.**

Should any section or provision of this article be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the article as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

### **Sec. 15-14. Reserved.**

### **Sec. 15-15. Amendments.**

- (a) The town council may from time-to-time amend the terms of this article.
- (b) The town council shall adopt no amendment until they have held a public hearing on the amendment. Notice of the hearing shall be posted in a prominent place at the Town Hall and published in a newspaper of general circulation in the town at least once a week for two successive calendar weeks prior to the hearing. The initial notice shall appear not more than 25 or less than ten days prior to the hearing date. In computing this period, the date of publication is not to be counted, but the date of the hearings.

### **Sec. 15-16. Abrogation.**

It is not intended that this article repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this article imposes greater restrictions, the provisions of this article shall govern.

### **Sec. 15-17. Administrator.**

Reserved.

## SUBDIVISIONS

### Sec. 15-18. Effective date.

This article shall take effect and be in force from the after, date approved.

### Sec. 15-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Block* means a piece of land bounded on one or more sides by streets or roads.

*Building setback line* means a line parallel to the front property line in front of which no structure shall be erected. Setbacks shall be figured from the right-of-way line.

*Dedication* means a gift by the owner or a right to use of land for a specified purpose. Because a transfer of property rights is entailed, dedication must be made by written instrument and is completed with an acceptance.

*Easement* means a grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.

*Expedited subdivision* means the division of one existing parcel of land under single ownership that is not exempt per NCGS 160D-802(a); (1) where no part of the tract or parcel to be divided has been divided in the 10 years prior to the proposed division; (2) the entire area of the tract or parcel to be divided is greater than 5 acres; (3) after division, no more than three lots result from the division and all resultant lots comply with all lot dimension size requirements of the applicable zoning district and the use of the lots is in conformity with the applicable zoning district; and (4) a permanent means of ingress and egress is recorded for each.

*Half street* means a street the centerline of which coincides with a subdivision plat boundary, with half the street right-of-way width being contained within the subdivision plat. Also, any existing street to which the parcel of land to be subdivided abuts on only one side.

*Lot* means a portion of a subdivision, or any other parcel of land, intended as a unit of transfer of ownership or for development or both.

*Lot of record* means a lot which is part of a subdivision, a plat of which has been recorded in the office of register of deeds of the county prior to September 21, 1995, or a lot described by metes and bounds, the description of which has been so recorded prior to September 21, 1995. Lot types are as follows:

- (1) *Corner lot* means a lot located at the intersection of two or more streets. A lot abutting on a curved street shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.
- (2) *Double-frontage lot* means a continuous (through) lot which is accessible from both streets upon which it fronts.

## SUBDIVISIONS

- (3) *Interior lot* means a lot other than a corner lot with only frontage on more than one street.
- (4) *Reversed-frontage lot* means a lot on which the frontage is at right angles or approximately right angles (interior angles less than 135 degrees) to the general pattern in the area. A reversed-frontage lot may also be a corner lot, an interior lot or a through lot.
- (5) *Single-tier lot* means a lot which backs upon a limited-access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.
- (6) *Through lot* means a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double-frontage lots.

*Official maps or plans* mean any maps or plans officially adopted by the town council.

*Open space* means an area (land and/or water) generally lacking in manmade structures and reserved for enjoyment in its unaltered state.

*Plat* means a map or plan of a parcel of land which is to be or has been subdivided.

*Private driveway* means a roadway serving two or fewer lots, building sites or other divisions of land and not intended to be public ingress or egress.

*Private Street* means an undedicated private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with G.S. 136-102.6.

*Public or community sewer system* means an approved sewage disposal system serving two or more connections, including private, municipal and sanitary district sewer systems designated to serve particular subdivisions at full development and constructed to specifications of the county health office in consultation with the division of health services and/or the division of environmental management of the department of environment, health and natural resources.

*Public water system* means an approved water supply system serving 15 or more connections, including county, municipal and sanitary district water systems designed to serve particular subdivisions at full development and constructed to specifications of the county health office in consultation with the division of health services, department of environment, health and natural resources.

*Reservation* means an obligation to keep property free from development for a stated period of time. A reservation of land does not involve any transfer or property rights.

*Septic tank system* means a ground absorption sewage treatment and disposal system consisting of a septic tank and a nitrification field, necessary pipelines, conduits, pump stations, and other appurtenances required for proper collection, distribution, treatment, disposal, operation and performance, or any other system approved by the health department.

*Street* means a dedicated and accepted public right-of-way for vehicular traffic (or a private road only if permitted by this article). The following classifications shall apply:

- (1) *Urban streets* include the following:



## SUBDIVISIONS

- a. Local Street is any link not part of a higher order urban system which serves primarily to provide direct access to abutting land and access to higher systems.
- b. *Major thoroughfares* consist of interstate, other freeway and expressway links, and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.
- c. *Minor thoroughfares* are important streets in the urban system and perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system by facilitating a minor through traffic movement and may also connect to abutting property.

(2) *Specific type rural or urban streets:*

- a. *Freeway, expressway and parkway* mean a divided multilane roadway designed to carry large volumes of traffic at relatively high speeds. A freeway is a divided highway providing for continuous flow of vehicles with no direct access to abutting property or streets and with access to selected crossroads provided via connecting ramps. An expressway is a divided highway with full or partial control of access and generally with grade separations at major intersections. A parkway is a highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon of park-like development.
- b. *Residential Collector Street* means a local access street which serves as a connector street between local residential streets and the thoroughfare system. Residential collector streets typically collect traffic from 100 to 400 dwelling units.
- c. *Local residential street* means a cul-de-sac, loop street less than 2,500 feet in length, or street less than one mile in length that does not connect thoroughfares or serve major traffic generators, and does not collect traffic from more than 100 dwelling units.
- d. *Cul-de-sac* means a short street having but one end open to traffic and the other end being permanently terminated and a vehicular turnaround provided.
- e. *Frontage road* means a local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.
- f. *Alley* means a strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise on a street.

*Sub-divider* means any person who sub-divides or develops any land deemed to be a subdivision.

*Subdivision*, for the purposes of this article, means all divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to any regulations enacted pursuant to this article:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the town as shown in this article;

## **SUBDIVISIONS**

- (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets; and
- (4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the town as shown in this article.
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes

**Sec. 15-20 – 15-40. Reserved.**

### **DIVISION 2. PLAT APPROVAL\***

**Sec. 15-41. Plat shall be required on any subdivision of land.**

Pursuant to G.S. 160D, article 8, a final plat shall be prepared, approved, and recorded pursuant to the provisions of this article whenever any subdivision of land takes place.

**Sec. 15-42. Approval prerequisite to plat recordation.**

Pursuant to G.S. 160D-803, no final plat of a subdivision within the jurisdiction of the town as established in section 15-4 shall be recorded by the register of deeds of the county until it has been approved by the Town Council as provided in this article. To secure such approval of a final plat, the sub divider shall follow the procedures established in this subdivision.

**Sec. 15-43. Procedures for review of major, minor, and expedited subdivisions.**

- (a) All subdivisions shall be considered major subdivisions except those defined as minor or expedited subdivisions in this article. Major subdivisions shall be reviewed in accordance with the procedures in section 15-46 through 15-49. Minor subdivisions shall be reviewed in accordance with the provisions in section 15-44. However, if the sub divider owns leases, holds an option on, or holds any legal or equitable interest in any property adjacent to or located directly across a street, easement, road or right-of-way from the property to be subdivided, the subdivisions shall not qualify under the abbreviated procedure (minor subdivisions). The abbreviated procedure may not be used a second time within three years on any property less than 1,500 feet from the original property boundaries by anyone who owned, had an option on, or any legal interest in the original subdivisions at the time the subdivision received preliminary or final plat approval. Furthermore, the abbreviated procedure may not be used within three years on any property less than 1,500 feet from the original property boundaries by any subsequent owner,

## SUBDIVISIONS

individual having an option on, or individual having any legal interest in the original subdivision at the time the subdivision received preliminary or final plat approval.

- (b) A minor subdivision is defined as a subdivision involving no new public or private streets or roads, or right-of-way dedication, no easements, no utility extension, where the entire tract to be subdivided is five acres or less in size, and where four or fewer lots result after the subdivision is completed.
- (c) An expedited subdivision is the division of one existing parcel of land under single ownership that is not exempt per G.S. 160D-802(a) when:
  - (1) No part of the tract or parcel to be divided has been divided in the 10 years prior to the proposed division;
  - (2) The entire area of the tract or parcel to be divided is greater than 5 acres;
  - (3) After division, no more than three lots result from the division and all resultant lots comply with all lot dimension size requirements of the applicable zoning district and the use of the lots is in conformity with the applicable zoning district; and,
  - (4) a permanent means of ingress and egress is recorded for each.

For a qualifying expedited subdivision, only a final plat meeting the requirements of Sec. 14-45 shall be required for approval, except that the certificate of approval shall be prepared for the signature of the subdivision administrator.

### **Sec. 15-44. Procedure for review of minor subdivisions.**

- (a) *Sketch plan for minor subdivision*, Prior to submission of a final plat, the sub divider shall submit to the Town Council five copies of a sketch plan of the proposed sub-division containing the following information:
  - (1) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
  - (2) The boundaries of the tract and the portion of the tract to be subdivided;
  - (3) The total acreage to be subdivided;
  - (4) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;
  - (5) The existing street layout and right-of-way width, lot layout and size of lots;
  - (6) The existing utility layouts;
  - (7) The name, address and telephone number of the owner;
  - (8) The name, if any, of the proposed subdivision;

## SUBDIVISIONS

- (9) Streets and lots of adjacent developed or plated properties;
  - (10) The zoning classification of the tract and of adjacent properties;
  - (11) A statement from the county health department that a copy of the sketch plan has been submitted to them, if a septic tank system or other onsite water or wastewater systems are to be used in the subdivision.
- (b) The Town Council will forward to the Planning and Zoning Board for review of the sketch plan for general compliance with the requirements of this article and the zoning ordinance; the Planning and Zoning Board shall advise the Town Council of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the final plat.
  - (c) The Planning and Zoning Board shall retain one copy of the sketch plan, and one copy shall be returned to the sub divider or his authorized agent.

### **Sec. 15-45. Final plat for minor subdivisions.**

- (a) Upon approval of the sketch plan by the Town Council, the sub divider may proceed with the preparation of the final plat in accordance with the requirements of this article. The sub divider shall submit the final plat so marked, to the Town Council.
- (b) A registered land surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors shall prepare the final plat. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30 and the Manual of Practice of Land Surveying in North Carolina.
- (c) Five copies of the final plat shall be submitted, two of these shall be on reproducible material; three shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Manual of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Brunswick County Register of Deeds.
- (d) The final plat shall be a size suitable for recording with the Brunswick County Register of Deeds and shall be at a scale of not less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.
- (e) A filing fee shall accompany submission of the final plat. The schedule of fees shall be posted in the office of the Town Clerk. A filing fee shall be adopted, and from time to time revised, by the Sandy Creek Town Council.
- (f) The final plat shall meet the specifications in section 15-49 of this article.
- (g) The following signed certificates shall appear on all five copies of the final plat:

## SUBDIVISIONS

(1) Certificate of ownership and dedication.

I (we) hereby certify that I am (we are) the owner(s) of the property shown and Described hereon and that I (we) hereby adopt this plan of a subdivision with my (our) free consent, establishes minimum setback line, and dedicates all streets, alleys, walks, parks and other sites to public or private use as noted. Further, I (we) certify the land as shown hereon is within the platting jurisdiction of the Town of Sandy Creek, North Carolina.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner(s)

- (2) Certificate of survey and accuracy. In accordance with the Manual of Practice for Land Surveying in North Carolina: Or: the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgements and executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map, which were not actually surveyed, must be clearly indicated on the map and a statement included in the certificate revealing the source of information.

The certificate shall take the following form:

State of North Carolina

Town of Sandy Creek

I, \_\_\_\_\_, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in book \_\_\_\_\_ page \_\_\_\_\_, book \_\_\_\_\_ page \_\_\_\_\_ etc.) (other); that the ratio of precision as calculated by latitudes and departures is 1: \_\_\_\_\_, (that the boundaries not surveyed are shown as broken lines plotted from information found in book \_\_\_\_\_ page \_\_\_\_\_); that this map was prepared in accordance with G.S. 47-30, as amended.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Register of Land Surveyor

Official Seal:

Registration Number:  
\_\_\_\_\_

I (officer authorized to take acknowledgements) do hereby certify that (name of registered Surveyor) personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and (where an official seal is required by law) official seal this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Official Seal

\_\_\_\_\_  
Notary Public

## SUBDIVISIONS

- (h) If the final plat for a minor subdivision is in compliance with this article, the Town Council shall approve the final plat.
- (i) Approval of the final plat is authorized for the plat to be filed with the register of deeds. Any final plat shall be recorded with the register of deeds within twelve months from the date of approval by the Town Council. If the final plat is not recorded within this period, it shall expire. The plat may be resubmitted for review and it shall be reviewed against the ordinance in effect at that time.
- (j) If the final plat is approved by the Town Council, the original and one print of the plat shall be retained by the sub divider. One reproducible tracing and one print shall be filed with the Town Clerk.
- (k) No final plat for a minor subdivision shall be approved until it meets the requirements set forth, all required fees have been paid and certificates required by this article appear on a final plat have been properly filled out, dated and signed.

### Certificate for Approval Reading

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Sandy Creek, North Carolina and that this plat has been approved for recording in the Office of the Register of Deeds of Brunswick County.

\_\_\_\_\_  
Sandy Creek Town Council  
Leland, NC

\_\_\_\_\_  
Date

- (l) If the final plat is not in compliance with these regulations and disapproved by the Town Council, the reasons for such disapproval shall be stated in writing, specifying the provisions of this article with which the final plat does not comply with. One copy of such reasons and one print of the plat shall be retained by the Town Clerk as part of the records; one copy of the reasons; one copy of the reasons and three copies of the plat shall be transmitted back to the sub divider. If the final plat is disapproved, the sub divider may make such changes as will bring the final plat into compliance and resubmit same for reconsideration by the Sandy Creek Town Council, or appeal the decision in accordance with section 15-53 of this article.

### **Sec. 15-46. Procedure for review of major subdivisions.**

The sequence of actions prescribed in this section shall be followed sequentially and may be combined only at the discretion of the Town Council. The actions include the following steps:

- (1) Pre-application discussion – Application and Town Council or its designee.
- (2) One-site walkabout by Sandy Creek Town Council or designee and applicant.
- (3) Sketch plan submission, review and approval.
- (4) Preliminary plat submission, review, and approval.
- (5) Final plat submission, review, and approval.

## SUBDIVISIONS

### Sec. 15-47. Elements of the preliminary process.

- (a) Pre-application discussion. A pre-application discussion is strongly encouraged between the applicant, the site designer(s), and the Town Council. The purpose of this informal meeting is to introduce the applicant and the site designer(s) to Sandy Creek's Zoning and Subdivisions Regulations and Procedures and to discuss the applicant's objectives in relation to the town's official policies and ordinances requirements.
- (b) On-site walkabout. After the pre-application discussion has been completed, the Town Council or its designee may schedule a mutually convenient date to walk the property with the applicant and his/her site designer. The purpose of this visit is to familiarize the Town Council with the property's special features, and to provide him an informal opportunity to offer guidance to the applicant regarding the potential house locations, street alignments, and the tentative location of conservation areas. If on-site walkabout is applicable the Town Council may combine the pre-application discussion and the on-site walkabout as one step in the submitted process of the preliminary plan.
- (c) Sketch plan. After the pre-application discussion conference, a sketch plan shall be submitted for all proposed subdivisions. A sketch plan is drawn to illustrate the initial thoughts about a conceptual layout for house sites, street alignments, and conservation areas – Taking into account any special conditions that may exist or are identified in the development. This is the stage where drawings are tentatively illustrated, before heavy engineering costs are incurred in the design of any proposed subdivision layout. Prior to the preliminary plat submission, the applicant shall submit to the Town Council two copies of the sketch plan of the proposed subdivision containing the following information:
  - (1) A sketch vicinity map showing the location of the subdivision in relation neighboring tracts, subdivisions, roads, and waterways;
  - (2) The boundaries of the tract and the portion of the land to be subdivided;
  - (3) The total acreage to be subdivided;
  - (4) The location of all potential conservation areas, using the pre-application discussion information. These areas consist of wetlands, floodplains, slopes over 25 percent, soils susceptible to slumping, and noteworthy natural, scenic, and cultural resources;
  - (5) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;
  - (6) The proposed street layout with approximate pavement and right-of-way widths;
  - (7) Proposed lot layout and size of lots;
  - (8) The existing utility layouts;
  - (9) The name, address, and telephone number of the owner;
  - (10) The name, if any, of the proposed subdivision;
  - (11) Streets and lots of adjacent developed or platted properties;

## SUBDIVISIONS

- (12) The zoning classification of the tract and of adjacent properties; and
- (13) A statement from the Brunswick County Health Department that copies of the sketch plan has been submitted to them. If a septic tank system or other on site water or wastewater system is to be used in the subdivision.

The Town Council shall forward to the Planning and Zoning Board the sketch plan for general compliance with the requirements and goals of this article and the zoning ordinance. The Planning and Zoning Board shall advise the applicant, or his authorized agent, of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats. The Town Clerk shall retain one copy of the sketch plan and one copy shall be returned to the applicant or his authorized agent.

### **Sec. 15-48. Preliminary plat submission.**

- (a) Submission procedure:
  - (1) For every subdivision within the territorial jurisdiction established by section 15-4, which does not qualify for the abbreviated procedure, the sub divider shall submit a preliminary plat which shall be reviewed by the planning board and approved by the Town Council before any construction or installation of improvements may begin.
  - (2) The preliminary plat shall be consistent in concept with the previously submitted and approved sketch plan. The preliminary plat may describe an area smaller than that shown on the approved sketch plan.
  - (3) When a preliminary plat is required by this article, the owner shall submit the following items below to the developmental services department at least 20 days prior to the regular meeting of the planning board:
    - a. Fifteen copies of the preliminary plat as well as any additional copies the Town Council determines are needed of the proposed subdivision, which may be sent to other agencies. All maps shall be folded to a suitable size preferably 8 ½" by 11".
    - b. The completed subdivision application and the payment of the required application fee.
    - c. Any other supporting developmental data relevant to the subdivision or required by staff.
  - (4) Preliminary plats shall contain the information items as outlined in section 15-50. Subdivisions shall be constructed and/or improved as required in division 3 of this article.
- (b) Review by other agencies. Concurrent with submission of the preliminary plat the Sandy Creek Town Council, shall direct the sub divider if warranted to meet the requirements of all state and/or federal agencies and any other officials and/or agencies concerned with the preliminary plat including but not limited to: The NCDOT District Highway Engineer as to proposed streets, highways, and drainage systems; the North Brunswick Sanitary District and the Brunswick County Health Director as to proposed water and sewerage systems; the North Carolina Department of Environment and Natural Resources, Land Quality Section as to the erosion control requirements; and any other agency or official designated by the subdivision administrator for review and recommendation.



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### (c) Review procedure.

- (1) The planning board shall review the preliminary plat within 30 days from the date a complete application and all the appropriate comments have been received by the developmental services department.
- (2) The planning board shall, in writing, recommend approval, conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons within 60 days of its first consideration to the Town Council, if the planning board does not make a written recommendation within 60 days after the first consideration of the plat, then that shall constitute approval of the preliminary plat.
- (3) If the Town Council approves the preliminary plat, such approval shall be noted on two copies of the plat as well as the certificate of approval for preliminary plat below. The Town Council shall retain one copy of the plat and one copy shall be returned to the sub divider.
- (4) If the Town Council approves the preliminary plat with conditions, approval shall be noted on two copies of the plat as well as the certificate of approval for preliminary plat below along with a reference to the conditions. The Town Council shall retain one copy of the plat along with the conditions, and one copy of the preliminary plat along with the conditions shall be returned to the sub divider.

### Certificate of Approval for Preliminary Plat

I, by authority of the Planning Board of the Town of Sandy Creek, North Carolina, hereby certify that the preliminary plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Sandy Creek, North Carolina as presented on the below date, and that this preliminary plat has been approved by the Town Council of the Town of Sandy Creek as presented on the below date, subject to the conditions listed below. This approval is not acceptable for recording purposes.

Conditions: \_\_\_\_\_

\_\_\_\_\_  
Planning Board Chairman  
Sandy Creek, North Carolina

\_\_\_\_\_  
Date

- (5) If the Town Council disapproves the preliminary plat the reasons for such disapproval shall be specified in writing. The Town Council shall retain one copy of the disapproved plat and the reasons, and one copy shall be returned to the sub divider.

## SUBDIVISIONS

- (6) If the preliminary plat is disapproved, the sub divider may make the recommended changes and submit a revised preliminary plat to be reviewed again by the planning board or appeal the decision by following the outlined procedures in section 15-53.
- (7) If the Town Council places conditions on a preliminary plat that the sub divider feels are unreasonable the sub divider may appeal the decision by following the outlined procedures in section 15-53.

### **Sec. 15-49. Final Plat Submission and review.**

(a) Preparation of final plat and installation of improvements. Upon approval of the preliminary plat by the Town Council, the sub divider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this article. Prior to approval of a final plat, the sub divider shall have installed the improvements specified in this article or guaranteed their installation as provided herein. The Town Council will accept no final plat for review until the sub divider has installed the improvements specified in this article or guaranteed their installation as provided herein. The final plat shall constitute only that portion of the preliminary plat, which the sub divider proposes to record and develop at that time; such portion shall conform to all requirements of this article.

#### **(b) Improvements guarantees**

(1) Agreement and security required. In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval the town council may enter into an agreement with the sub divider whereby the sub divider shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the Town Council may approve the final plat, if all other requirements of this article are met. To secure this agreement, the sub divider shall provide, subject to the approval of the town council, either one, or a combination of the following guarantees not exceeding 1.25 times the entire cost as provided herein.

- a. Surety bond issued by any company authorized to do business in this State.
- b. Letter of credit issued by any financial institution licensed to do business in this State.
- c. Other form of guarantee that provides equivalent security to a surety bond or letter of credit

(2) Duration and extension. The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the Town, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be equal to 125% of the total cost of all incomplete improvements. Such extension shall be approved by the subdivision administrator.

## SUBDIVISIONS

(3) Default. Upon default, meaning failure on the part of the sub divider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall if requested by the town council, pay all or any portion of the bond or escrow fund to the town up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, the town council, in its discretion, may expend such portion of said funds, as it deems necessary to complete all or any portion of the required improvements. The town shall return to the sub divider any funds not spent in completing the improvements.

(4) Release of guarantee security. The town council may release a portion of any security posted as the improvements are completed and approved by the subdivision administrator.

(c) Submission procedure.

(1) The sub divider shall submit the final plat, so marked, to the Town Council at which it will be reviewed; further, the final plat for the first stage of the subdivision shall be submitted not more than 18 months after the date on which the preliminary plat was approved; otherwise such approval shall be null and void, unless a written extension of this limit not to exceed a 54-month period from the initial approval date granted by the planning board. This subsection shall not be interpreted to supersede any vested rights of an applicant.

(2) The Town Council shall determine if the final plat is substantially equivalent to the preliminary plat previously approved by the planning board. If the final plat is determined to be substantially equivalent, the Town Council shall continue with review and approval, otherwise the sub divider will be required to resubmit the plat to the planning board as a new submission for approval and conform to the current regulations, associated fees and policies of the town.

(3) The final plat shall be prepared by a registered land surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivision, and mapping requirements set forth in G.S. 47-30 and the Manual of Practice for Land Surveying in North Carolina.

(4) Five copies of the final plat shall be submitted; two of these shall be on reproducible material; three shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Manual of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Brunswick County Register of Deeds.

(5) The final plat shall be of a size suitable for recording with the Brunswick County Register of Deeds and shall be at a scale of not less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

(6) A filing fee shall accompany submission of the final plat. The schedule of fees shall be posted in the office of the town clerk. A filing fee shall be adopted, and from time to time revised, by the town council.

(7) The final plat shall meet the specifications in section 15-50.

(8) The following signed certificates shall appear on all five copies of the final plat:

## SUBDIVISIONS

### a. Certificate of ownership and dedication.

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of a subdivision with my (our) own free consent, establish minimum setback line, and dedicates all streets, alleys, walks, parks and other sites to public or private used as noted. Further, I (we) certify the land as shown hereon is within the platting jurisdiction of the Town of Sandy Creek, North Carolina.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owners

### b. Certificate of survey and accuracy.

In accordance with the Manual of Practice for Land Surveying in North Carolina: On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgements and executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which were not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of information.

The certificate shall take the following general form.

State of North Carolina

Town of Sandy Creek

I, \_\_\_\_\_ certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in book \_\_\_\_\_ page \_\_\_\_\_ book \_\_\_\_\_ page \_\_\_\_\_, etc.) (other); that the ratio of precision as calculated by latitudes and departures is 1: \_\_\_\_\_ (that the boundaries not surveyed are shown as broken lines plotted from information found in book \_\_\_\_\_ page \_\_\_\_\_): that this map was prepared in accordance with G.S. 47-30, as amended. Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

Official Seal

\_\_\_\_\_  
Register Land Surveyor

\_\_\_\_\_  
Registration Number

I, (officer authorized to take acknowledgements) do hereby certify that (name of registered surveyor) personally appeared before me this day and acknowledged and due execution of this certificate. Witness my hand and (where an official seal is required by law) official seal this the \_\_\_\_\_ day of 20\_\_ (year).

\_\_\_\_\_  
Notary Public

Official Seal

## SUBDIVISIONS

c. Certificate of approval of the design and installation of streets, utilities, and other required improvements.

I hereby certify that all streets, utilities and other required improvements have been installed in a manner approved by the appropriate state and/or local authority and according to Town specifications and standards in the \_\_\_\_\_ Subdivision or that guarantees of the installation of the required improvements in an amount and manner satisfactory to Town of Sandy Creek has been received, and that the filing fee for this plat, in the amount of \_\_\_\_\_ has been paid.

\_\_\_\_\_  
Sandy Creek Town Council

\_\_\_\_\_  
Planning and Zoning Board

\_\_\_\_\_  
Date

### DIVISION 2. PLAT APPROVAL\*

(9) Within thirty working days of submission, the Town Council or his designee shall approve or disapprove the final plat.

(10) During the review of the final plat the Town Council may appoint an engineer or registered surveyor to confirm the accuracy of the final plat or provide comments on technical data. If substantial errors are found, the cost shall be charged to the sub divider and the plat shall not be recommended for approval until such errors have been corrected and fees have been paid.

(11) If the final plat is approved by the Town Council, the original tracing and one print of the plat shall be retained by the sub divider. One reproducible tracing and one print shall be filed with the developmental services department, and one print shall be retained by the planning board for its records.

(12) Such approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of approval for recording.

I hereby certify that the subdivision plat shown hereon has been found to Comply with the Subdivision Regulations of the Town of Sandy Creek, North Carolina, and that this plat has been approved by the Sandy Creek Town Planning Board for recording in the Office of the Register of Deeds of Brunswick County.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mayor, Town of Sandy Creek

## SUBDIVISIONS

(13) If the final plat is disapproved by the Town Council, the reasons for such disapproval shall be stated in writing, specifying the provisions of this article with which the final plat does not comply. One copy of such reasons and one print of the plat shall be retained by the Town Clerk as part of its proceedings; one copy of the reasons and three copies of the plat shall be transmitted back to the sub divider. If the final plat is disapproved, the sub divider may make such changes as will bring the final plat into compliance and resubmit same for reconsideration by the Town Council or appeal the decision to the planning board following the outlined procedures in section 15-53.

### **Sec. 15-50. Information to be contained in or depicted on preliminary and final plat.**

The preliminary and final plats shall depict or contain the information indicated in the following table. An "X" indicates that the information is required.

Information	Preliminary Plat	Final Plat
Title block containing		
Property designation	X	X
Name of owner	X	
Location (including township, county and state)	X	X
Date or dates survey was conducted and plat prepared	X	X
A scale of drawing in feet per inch listed in words or figures	X	X
A bar graph	X	X
Name, address, registration number and seal of the registered land surveyor		X
The name of the sub divider	X	
A sketch vicinity map showing the relationship between the proposed subdivision and surrounding area	X	X
Corporate limits, township boundaries, county lines if on the subdivision tract	X	X
The names, addresses and telephone numbers of all owners, architects, land surveyors, and professional engineers responsible for the sub-division	X	X
Date of plat preparation	X	
North arrow and orientation	X	
The exact boundary lines of the tract to be subdivided, fully dimensions by lengths and bearings, and the location of existing boundary lines of adjoining lands	X	
The names of owners of adjoining properties	X	X
The names of any adjoining subdivisions of record	X	X
Minimum building setback lines	X	
The zoning classifications of the tract to be subdivided and adjoining properties	X	
Proposed lot lines, lot numbers and/or block numbers, and dimensions	X	X
Approximate location(s) of existing buildings or other structures, water courses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining	X	
The lots numbered consecutively throughout the subdivision		
Approximate location(s) of wooded areas, marshes, swamps, ponds or lakes, streams or streambeds and any other natural features affecting the site	X	
The approximate location the flood hazard, floodway fringe areas from the community's FHBM or other FEMA maps	X	
The following data concerning streets:		

## SUBDIVISIONS

Information	Preliminary Plat	Final Plat
• Proposed streets	X	
• Existing and platted streets on adjoining properties and in the proposed subdivision		
• Rights-of-way, locations and dimensions	X	X
• Payment widths	X	
• Approximate grades	X	
• Design engineering data for all corners and curves	X	
• Typical street cross sections	X	
• Street names	X	X
The locations and dimensions of all:		
• Utility and other easements	X	X
• Riding trails		
• Natural buffers	X	
• Pedestrian or bicycle paths		
• Parks and recreation areas with specific type indicated	X	
• School sites	X	
• Areas to be dedicated to or reserved for public use	X	
• The future ownership (dedication or reservation for public use to governmental body, for owners to duly constituted homeowners' association, or for tenants remaining in sub divider's ownership, or other non-profits agencies) or recreation and open space lands	X	
Site calculations including:		
• Acreage in total tract to be subdivided	X	
• Acreage in parks and recreation areas and other nonresidential uses	X	
• Total number of parcels created		
• Acreage in the smallest lot in the subdivision	X	
• Linear feet in streets	X	
The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places	X	X
Sufficient surveying data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distance for the center line of curved property lines that are not the boundary line of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute	X	X
The accurate locations and descriptions of all monuments, markers and control points		X
Any other information considered by either the subdivision administrator and/or the planning board to be permitted to the review of the plat	X	X

**Sec. 15-51. Recombination of land.**

## SUBDIVISIONS

- (a) Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.
- (b) Such an instrument shall be approved by the same agencies as approved the final plat. The planning board may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.
- (c) Such an instrument shall be executed, acknowledged or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.
- (d) When lots have been sold, the plat may be vacated in the manner provided in subsections (a) through (c) of this section by all owners of the lots in such plat joining in the execution of such writing.

### **Sec. 15-52. Re-subdivision procedures.**

For any re-platting or re-subdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision.

### **Sec. 15-53. Appeals.**

- (a) Decisions by the Planning Board relating to minor subdivisions may be appealed to the Town Council in accordance with the following procedures:
  - Step 1: The applicant shall notify the Town Council in writing of his/her intent to appeal the Planning Board's decision within 30 days of denial stating the grounds for the appeal.
  - Step 2: Once the appeal is received the Town Council will place the appeal on the next available Town Council agenda for their review. The decision of the Town Council shall be final.
- (b) Decisions by the planning board regarding conditions placed on a plat or disapproval of a plat may be appealed in accordance with the following procedures:
  - Step 1: The sub divider shall file written notice of appeal with the town clerk not later than 30 days after the date of the action by the planning board stating the grounds for appeal. The party or parties appealing shall be entitled to a de r, ovo hearing before the town council. The Town Council shall notify the planning board of the appeal upon receipt of the notice of appeal. The town council in considering the appeal shall have the same authority as the planning board.
  - Step 2: The town clerk shall set a hearing date before the town council within 30 days of receipt of written notice of the appeal, or as soon thereafter as is practicable.
- (c) In hearing an appeal of a decision of the Planning Board relating to minor subdivisions, the Town Council shall operate under the procedures of the board of adjustment as defined by Chapter 19, Article II, Division 2 of the Sandy Creek Code of Ordinances.



## SUBDIVISIONS

The decision of the town council shall be subject to review by the Superior Court of Brunswick County. In order to obtain judicial review of a final decision by the town council, the person seeking review must file a petition in the Superior Court of Brunswick County within 30 days of the final decision of the Town Council.

**Sec. 15-54 – 15-70. Reserved.**

**Sec. 15-71. Generally.**

Each subdivision shall contain the improvements specified in this division, which shall be installed in accordance with the requirements of this article and paid for by the subdivider unless other means of financing is specifically stated in this article. Land shall be dedicated and reserved in each subdivision as specified in this division. Each subdivision shall adhere to the minimum standards of design established by this division.

**Sec. 15-72. Suitability of land.**

(a) Generally

- (1) The burden of proof that lots and acreage are suitable for development shall rest with the sub divider. A subdivision plat may be disapproved if the Town Council determines that insufficient or inadequate data is submitted by the sub divider.
  - (2) Land which has been determined by the Town Council, on the basis of engineering or other expert surveys, to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose unless and until the sub divider has taken the necessary measures to correct the conditions and to eliminate the dangers.
  - (3) The Town Council shall use all available resources to ascertain the suitability of lots and acreage for development, including but not limited to soils for use of septic tanks and drainage characteristics. Expenses created in documenting this data shall be the responsibility of the developer. Fees incurred shall be paid prior to final plat approval.
  - (4) Lots and acreage determined by the Town Council to be unsuitable for development shall be so indicated on the final plat and shall not be made available for sale to the public by the sub divider. Such lots and acreage shall not be developed for inhabitable buildings or structures but may be used otherwise for the public or community benefit.
- (b) Solid waste uses. Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the county health department, a structural engineer and an expert determine that the land is suitable for the purpose proposed.
- (c) Flood damage prevention.

## SUBDIVISIONS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

### **Sec. 15-73. Name duplication.**

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within the county. The name of streets shall not duplicate nor closely approximate the name of any existing street within the county.

### **Sec. 15-74. Subdivision design.**

#### *(a) Blocks.*

- (1) The lengths, widths and shapes of blocks shall be determined with due regard to:
  - a. Provision of adequate building sites suitable to the special needs of the type of use contemplated;
  - b. Zoning requirements;
  - c. Needs for vehicular and pedestrian circulation;
  - d. Control and safety of street traffic; and
  - e. Limitations and opportunities of topography.
- (2) Blocks shall not be less than 400 feet or more than 1,800 feet.
- (3) Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single-tier lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting a water area.
- (4) Where deemed necessary by the planning board, a pedestrian crosswalk at least 15 feet in width may be required to provide convenient public access to a public area such as a park or school, or to areas such as shopping centers, religious or transportation facilities.
- (5) Block numbers shall conform to the town street numbering system if applicable.

#### *(b) Lots.*

- (1) All lots in new subdivisions shall conform to the zoning requirements of the district in which the subdivision is located. Conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all dimensional requirements of chapter 3C. It is not sufficient merely for the average lot to meet zoning requirements.
- (2) Lots shall meet any applicable county health department requirements.

## SUBDIVISIONS

- (3) Double-frontage lots shall be avoided wherever possible.
  - (4) Side lot lines shall be substantially at right angles to radial street lines.
  - (5) To promote energy conservation, lots in the subdivision shall, to the extent possible in light of topographic and other considerations, face streets which run in an east-west direction, to provide greater opportunity for south orientation of windows in buildings. In manufactured home subdivisions, if units will be sited with the long perpendicular to the street, lots shall, to the extent possible, face streets which run in a north-south direction.
- (c) *Easements.* Easements shall be provided as follows:
- (1) *Utility easements.* Easements for underground or aboveground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least 20 feet wide for water and sanitary sewer lines and as required by the companies involved, for telephone, gas and power lines. The planning board will determine whether one easement is sufficient or whether several easements are necessary to accommodate the various facilities and the sub divider shall provide the required easements.
  - (2) *Drainage easements.* Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such stream and of sufficient width as will be adequate for the purpose. Provisions for the future maintenance and upkeep of all drainage easements shall be approved by the planning board prior to plat approval, and such provisions shall be included with the final plat.

### Sec. 15-75. Streets.

(a) *Types of streets required.* All subdivision lots shall abut on a public street. All subdivision streets shall be dedicated to the town. All public streets shall be built to the standards of this article and all other applicable standards of the town and the state department of transportation. Public streets shall be constructed to the standards necessary to be put on the state highway system or the standards in this article, whichever is stricter in regard to each particular item, and shall be put on such system. A written maintenance agreement with provisions for maintenance of the street until it is put on the town's system shall be included with the final plat.

(b) *Subdivision street disclosure statement.* All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6 and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or state system, before lots are sold, a statement explaining the status of the street shall be included with the final plat. The provisions outlined in subsection (a) of this section will apply.

(c) *Half streets.* The dedication of half street of less than 60 feet at the perimeter of a new subdivision shall be prohibited. If circumstances render this impracticable, adequate provision for the concurrent dedication of the remaining half of the street shall be furnished by the sub divider. Where there exists, a half street in an adjoining subdivision, the remaining half shall be provided by the proposed subdivision. However, in circumstances where more than 60 feet of right-of-way is required, a partial width right-of-way, not less than 60 feet in width, may be dedicated when adjoining undeveloped property is owned or controlled by the sub divider; provided that the width of the partial dedication is such as to permit the installation of such facilities as may be necessary

## SUBDIVISIONS

to serve abutting lots. When the adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.

(d) *Marginal-access streets.* Where a tract of land to be subdivided adjoins a principal arterial street, the sub divider may be required to provide a marginal-access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial.

(e) *Access to adjacent properties.* Where in the opinion of the planning board it is necessary to provide for access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turnaround provided.

(f) *Nonresidential streets.* The sub divider of a nonresidential subdivision shall provide streets in accordance with the standards contained in the most current edition of the North Carolina Roads, Minimum Construction Standards booklet, and the standards in this article, whichever are stricter in regard to each particular item.

(g) *Design standards.* The design of all streets and roads within the jurisdiction this article shall be in accordance with the accepted policies of the state department of transportation, division of highways, as taken or modified from the American Association of State Highway Officials (AASHO) manuals. The most current edition of the state department of transportation, division of highways subdivision roads minimum construction standards, shall apply for any items not included in this article, or where stricter than this article.

(h) *Right-of-way widths* of all street and roads within the jurisdiction of this article shall conform to the most current edition of the North Carolina Department of Transportation, Division of Highways Subdivision Roads Minimum Construction Standards. All other restrictions on such right-of-way widths are set forth in said standards shall apply.

(i) *Street paving widths.* Paving widths for street and road classifications shall be as required by the mutually adopted thoroughfare plan where applicable and according to the minimum standards adopted by the state department of transportation.

(j) *Minimum sight distances.* In the interest of public safety, no less than the minimum sight distance applicable (for roads), according to the state department of transportation, shall be provided in every instance.

(k) *Intersections.*

(1) Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle less than 60 degrees.

(2) Property lines at intersections should be set so that the distance from the edge of pavement, of the street turnout, to the property line will be at least as great as the distance from the edge of pavement to the property line along the intersecting streets. This property line can be established as a radius or as a sight triangle. Greater offsets from the edge of pavement to the property line will be required, if necessary, to provide sight distance for the vehicle on the side street.

(3) Offset intersections are to be avoided unless exception is granted by the state division of highways. Intersections which cannot be aligned should be separated by a minimum

## SUBDIVISIONS

length of 200 feet between survey centerlines.

(4) Intersections with arterials, collectors and thoroughfares shall be at least 1,000 feet from centerline to centerline, or more if required by the state department of transportation.

(l) *Cul-de-sac.* Permanent dead-end streets should not exceed 500 feet in length unless necessitated by topography or property accessibility and in no case shall be permitted to be over 900 feet. Measurements shall be from the point where the centerline of the dead-end street intersects with the center of the turnaround of the cul-de-sac. Where one cul-de-sac intersects with another cul-de-sac, the end of each cul-de-sac shall be no more than 500 feet to 900 feet from a through street, measured as stated in this subsection. The distance from the edge of pavement on the vehicular turnaround to the right-of-way line shall not be less than the distance from the edge of pavement to right-of-way line on the street approaching the turnaround. Cul-de-sac should not be used to avoid connection with an existing street or to avoid the extension of an important street unless exception is granted by the planning board.

(m) *Alleys.*

(1)a. Alleys shall be required to serve lots used for commercial and industrial purposes, except that this requirement may be waived where other definite and ensured provision is made for service access.

b. Alleys shall not be provided in residential subdivisions unless necessitated by unusual circumstances.

(2) The width of an alley shall be at least 20 feet.

(3) Dead-end alleys shall be avoided where possible but if unavoidable, shall be provided with adequate turnaround facilities at the dead-end as may be approved by planning board.

(4) Sharp changes in alignment and grade shall be avoided.

(5) All alleys shall be designed in accordance with state department of transportation standards.

(n) *Through traffic discouraged on residential collector and local streets.* Residential collection and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to ensure convenient access to parks, playgrounds, schools or other places of public assembly.

(o) *Sidewalks.* Sidewalks may be required by the planning board on one or both sides of the street in areas likely to be subject to heavy pedestrian traffic such as near schools and shopping areas. Such sidewalks shall be constructed to a minimum width of four feet, and shall consist of a minimum thickness of four inches of concrete. All sidewalks shall be placed in the right-of-way unless the development is platted as a planned unit or group development. Sidewalks shall consist of a minimum of six inches of concrete at driveway crossings.

(p) *Street names.* Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided; and in no case shall the proposed name be phonetically similar to existing names in the county irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to approval of the planning board.

## SUBDIVISIONS

(q) *Street name and traffic control signs.* The sub divider shall be required to provide and erect street name and traffic control signs to town standards at all appropriate locations within the subdivision.

(r) *Permits for connection to state roads.* An approved permit is required for connection to any existing state road system. This permit is required prior to any construction on the street or road. The application is available at the office of the nearest district engineer of the state division of highways.

(s) *Wheelchair ramps.* In accordance with G.S. 136-44.14, all street curbs in the state being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities or altered for any reason shall provide wheelchair ramps for the physically handicapped at all intersections where both curb and gutter and sidewalks are provided and at other major points of pedestrian flow.

(t) *Horizontal width on bridge deck.*

(1) The clear roadway widths for new and reconstructed bridges serving two lanes, two-way traffic shall be as follows:

a. Shoulder section approach.

1. Under 800 ADT design year, minimum 28 feet width face-to-face of parapets or rails or pavement width plus ten feet, whichever is greater?
2. Eight hundred to 2,000 ADT design year, minimum 34 feet width face-to-face of parapets or rails or pavement width plus 12 feet, whichever is greater.
3. Over 2,000 ADT design year, minimum 40 feet. Desirable 44 feet width face-to-face of parapets or rails.

b. Curb and gutter approach.

1. Under 800 ADT design year, minimum 24 feet face-to-face of curbs.
2. Over 800 ADT design year, width of approach pavement measured face-to-face of curbs. Where curb and gutter sections are used on roadway approaches, curbs on bridges shall match the curbs on approaches in height, in width of face-to-face curbs, and in crown drop. The distance from face to curb to face of parapet or rail shall be one foot six inches minimum, or greater if sidewalks are required.

(2) The clear roadways widths for new and reconstructed bridges having four or more lanes serving undivided two-way traffic shall be as follows:

- a. For shoulder section approach, width of approach pavement plus width of usable shoulders on the approach left and right, minimum eight feet, desirable ten feet.
- b. For curb and gutter approach, width of approach pavement measured face-to-face of curbs.

## SUBDIVISIONS

State law references: Unit ownership act, G.S. 47A-1 et seq.

### Sec. 15-76. Utilities.

(a) *Water and sanitary sewer system.* All lots in subdivisions not connected to the county water system and/or any sewer system must have a suitable source of water supply and sanitary sewage disposal, which complies with the regulations of the appropriate permitting agency. Lots connected to private utility systems shall submit evidence authorizing the connection from the permitting agency. It will be compulsory for all lots to be connected to public or private utility systems where available.

(b) *Storm water drainage system.*

(1) The sub divider shall provide a surface water drainage system as it relates to streets and constructed to the standards of the state department of transportation, as reflected in the Handbook for the Design of Highway Surface Drainage Structures (1973), subject to review by the town's consulting engineer.

(2) No surface water shall be channeled or directed into a sanitary sewer.

(3) Where feasible, the sub divider shall connect to existing surface water drainage system.

(4) Where an existing surface water drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.

(5) Surface drainage courses shall have side slopes of at least three feet of horizontal distance for each one foot of vertical distance; and courses shall be of sufficient size to accommodate the drainage area without flooding and designed to comply with the standards and specifications for erosion control of the North Carolina Sedimentation Pollution Control Act, G.S. 113A-50 et seq.; 15A, NCAC 04; and all locally adopted erosion and sedimentation control ordinances.

(6) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one foot in each 200 feet of horizontal distance.

(7) Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the North Carolina Sedimentation Pollution Control Act, G.S. 113A-50 et seq., and 15A NCAC 04.

(8) Anyone constructing a dam or impoundment within the subdivision must comply with the North Carolina Dam Safety Law of 1967, G.S. 143-215.23 et seq., and 15A NCAC 2K.

(9) In all areas of special flood hazard, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage. Storm water drainage as it relates to runoff shall be controlled on-site without the benefit of engineered systems which require intensive maintenance by the property owner. Consequently, the maximum lot

## SUBDIVISIONS

coverage as provided for in chapter 30, pertaining to zoning requirements shall be adhered to in order to contain storm water runoff.

(10) When there is a natural stream traversing property subject to this article and beavers and/or animals which may cause a problem (flooding) are present; the developer shall take whatever measures necessary to eliminate the animals in accordance with the law. Once every effort has been expended to eliminate the problem, the town will thereafter assume responsibility for problems created by indigenous wildlife.

(c) *Streetlights.* All subdivisions in which the size of the smallest lot is less than 10,000 square feet shall have streetlights installed throughout the subdivision in accordance with the standards approved by the planning board. The developer shall be required to pay to the electric company the cost of street lighting installation that exceeds four times the continuing annual revenue. If underground wiring of street lighting is requested by the developer or the town, the developer may be required to install all fixed items such-as conduit, pads, manholes and pole foundations; the town will own and maintain the fixed items.

(d) *Underground wiring.* All subdivisions shall have underground wiring. Such underground wiring shall be installed in accordance with the standards of Carolina Power & Light Company. The sub divider shall be required to pay the charges for installation of the underground service, which charges will be made in accordance with the effective underground electric service plan as filed with the state utilities commission.

(1) *Exemption.* – The regulation shall not require a developer or builder to bury power lines meeting all of the following criteria:

- a. The power lines existed above ground at the time of first approval of a plat or development plan by the Town, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.
- b. The power lines are located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.

State law references: Dam Safety Law, 0.5.143-215.23 et seq.

### **Sec. 15-77. Buffering, recreation and open space requirements.**

(a) *Buffering.* Whenever a residential subdivision is located adjacent to an office, institutional, commercial or industrial use which does not have a buffer, or property zoned for these uses, and a buffer is not required between these uses and the subdivision, the sub divider shall provide a buffer as determined by the planning board. The width of the buffer shall be in addition to the lot area required by chapter 30, pertaining to zoning requirements. The buffer shall become part of the lot on which it is located or in the case of commonly owned property, shall be deeded to the homeowners association.

(b) *Recreation and open space.* Every person who subdivides land for residential purposes shall be required to dedicate a portion of such land, as set forth in this article for the purposes of park, recreation and open space sites to serve the residents of the subdivision. The amount of land required to be dedicated by a sub divider shall be based on a formula. The actual amount of land to be dedicated shall be determined as follows:



## SUBDIVISIONS

The minimum amount of land that shall be dedicated for recreation, parks or open spaces in all subdivisions shall be one-half acre for each subdivision or five percent of the gross acreage, whichever is greater. No parcels containing less than one-half acre shall be accepted. All land so dedicated shall have at least 20 feet of access upon a public street or walkway; and the size, shape, topography and sub soils of the dedicated land shall be such as to be usable for active recreation.

(c) *Suitability of land.* Criteria for evaluating suitability of proposed recreation, parks and open space areas shall include but are not limited to the following as determined by the planning board, in consultation with the town recreation councilmember:

(1) *Unity.* The dedicated land shall be a single parcel except where it is determined that two or more parcels would be in the public interest. The planning board may require that parcels be connected and may require the dedication of a connecting path of up to 60 feet and in no case less than 30 feet in width in addition to the land required in subsection (b) of this section.

(2) *Location.* The dedicated land shall be located so as to serve the recreation needs of the immediate neighborhood within the subdivision.

(3) *Accessibility.* Public access to the dedicated land shall be provided either by an abutting street or public easement. Such easement may be required to be up to 60 feet in width and shall in no case be less than 30 feet in width.

(4) *Usability.* The dedicated land shall be usable for active recreation (play areas, ball fields, tennis courts, or similar recreation uses). Lakes may not be included in computing amount of land to be dedicated unless acceptable to the planning board. If the planning board determines that active recreation needs are being met by other dedicated parcels or existing recreation facilities, land that is suitable for open space may be dedicated.

(5) *Adjustments authorized.* The town council may, in cases of unusual or exceptional nature, allow adjustments in the dedication requirements established in or required by this article. Such adjustments shall be reviewed by the planning board before action by the town council.

(6) *Easements.* Conservation and historic preservation easements shall comply with G.S. 121-34-42. All facilities and improvements and open spaces which the owner makes an offer of dedication to public use shall be maintained by the owner until such offer of dedication is accepted by the appropriate public authority.

### Sec. 15-78. Other requirements.

(a) *Placement of monuments.* Unless otherwise specified by this article, the Manual of Practice for Land Surveying as adopted by the state board of registration for professional engineers and land surveyors, under the provision of 21 NCAC 56, shall apply when conducting surveys for sub-divisions; to determine the accuracy for surveys and placement of monuments, control corners, markers and property corner ties; to determine the location, design and material of monuments, markers, control corners and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.

(b) *Construction procedures.*

## SUBDIVISIONS

(1) No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved and all plans and specifications have been approved by the appropriate authorities.

(3) No building, zoning or other permits shall be issued for erection of a structure on any lot not of record on September 21, 1995, until all requirements of this article have been met. The sub divider, prior to commencing any work within the subdivision, shall make arrangements with the administrator of this article to provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of the sureties.

(c) *Oversized improvements.* The town may require installation of certain oversized utilities or the extension of utilities to adjacent property when it is in the, interest of future development. If the town requires the installation of improvements in excess of the standards required in this article, including all standards adopted by reference, the town shall pay the cost differential between the improvement required and the standards in this article. The town may recoup this cost through acreage fees as set forth in the approximate town ordinance.

(d) *Planned unit development or Planned residential.* Reserved.

Passed and adopted this 9<sup>th</sup> day of October 2006.

By: \_\_\_\_\_  
Mayor

Attest:

By: \_\_\_\_\_  
Town Clerk

## **CHAPTER 16**

### **TAXATION**

**Sec. 16-1 thru 16-33 Reserved.**

## CHAPTER 17

### UTILITIES\*

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**\*Cross references:** Administration, Ch. 2; buildings and building regulations, Ch. 5; minimum housing code adopted, 5-106; numbering of buildings required, 5-121; requirements for moving buildings prohibited, 5-156 et seq.; fire protection and prevention, Ch. 6; obstructing hydrants prohibited, 6-2; subdivisions, Ch. 15; zoning, Ch. 19.

**State law references:** Public enterprises, G.S. 160A-311 et seq.; public utilities, G.S., Ch. 62; franchises, G.S. 160A-76, 160A-319; revenue bonds, G.S. 159-80 et seq.; water and air resources, G.S. 143-211 et seq.; pipes below surface of streets and sidewalks, G.S. 160A-296; special assessments, G.S. 160A-216 et seq.; ordinances effective on town property outside limits, G.S. 160A-176; emission of pollutants or contaminants, G.S. 160A-185; health and safety nuisances, G.S. 160A-193.

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- Art. I. In General, 17-1 – 17-19
  - Art. II. Water, 17-20 – 17-59
  - Art. III. Sanitary Sewers, 17-60 – 17-80
    - Div. 1 Generally 17-61 – 17-70
    - Div. 2 Oil and Grease, 17-71 – 17-80
  - Art. IV. Septic Tanks, 17-81 – 17-100
  - Art. V. Extension of water and Sanitary Sewer Service, 17-101 – 17-120
  - Art. VI. Water and Sewer Service Rates, Charges and Billing Procedures  
17-121 – 17-129
  - Art. VII. Storm Water Services, Rates, Charges and Billing Procedures,  
17-130 – 17-139
  - Art. VIII. Water Conservation, 17-140 – 17-146

## **ARTICLE I. IN GENERAL**

### **Sec. 17-1. Superintendent of waterworks and sewers.**

The superintendent of waterworks and sewers shall, be appointed and under the supervision and control of the town council, be the general execution officer of the water and sewerage systems of the town. The superintendent shall see that the rules and regulations of the council and of his department are enforced; that all contracts relating to the water and sewerage department are faithfully performed; that the assessment of water rates and sewerage charges are correctly made and attachments platted. He shall have a general supervision over all property and operation of the water and sewerage systems and shall, through the town council, report to the council each month or oftener, if necessary, and at such other times as the town council may require, concerning the same, and make sure suggestions for improvements and extensions as the best interest of the town may require.

### **Sec. 17-2. Duties of officers and employees.**

Unless otherwise directed by the town council, all officers and employees of the water and sewerage department shall devote their whole time, during the hours prescribed for duty diligently and loyally to the service of the water and sewerage department. They shall properly care for and preserve the property of the department, and shall be held responsible for all such property under their control. They shall promptly notify their superiors or the superintendent of any defects or leaks, injury or failure to work properly, in attachments, or the systems, or any displacement or loss of property, tools and supplies. Officers and employees shall not appropriate or apply the property of the department to their personal use.

### **Sec. 17-3. Reservation of right to refuse water or sewer service outside town.**

The council reserves the right to refuse to serve any or all persons or premises, outside the corporate limits of the town, with water from the municipal waterworks system or sewer service.

### **Sec. 17-4. Injury to or interference with sewer or waterworks system.**

It shall be unlawful for any person to remove, damage or interfere with any sewer or water pipe belonging to the town, or to remove, break or injure any portion of any manhole, flush tank or any part of a sanitary sewer, or to injure, deface, remove or destroy any reservoir, fixture or other property belonging to or used in connection with the waterworks system of the town.

### **Sec. 17-5. Accessibility and availability of sewer service.**

For the purpose of chapter 17, sewer service is not accessible and available if the building or structure to be served on the property is located more than 200 feet from an existing public sewer line that reasonable could serve the property.

## ARTICLE II. WATER\*

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\*State law references: Authority to serve customers outside city limits, G.S. 160A-312.

### **Sec. 17-20. Connection required upon availability of water service.**

Every person who owns improved property within the town shall be required within 60 days of date of notification from the town, make application and connection to the public water system in accordance with the provisions of Chapter 17 of the Sandy Creek Town Ordinances.

### **Sec. 17-21. Liability of the town.**

The town shall not be liable to consumers for the quantity or quality of water furnished, or for any damage that may result to consumers from the shutting off of the water main or service for any purpose whatever, even in cases where no notice is given, and all contracts, agreements or permits for the use of water from the municipal system are made expressly subject to the provisions of this section.

### **Sec. 17-22. Supply pipes under control of department; installation and inspection of service pipes.**

Supply pipes, including curb cocks, shall be put in only by the water and sewerage department, and service pipes by a licensed plumber. When service pipes are put in, extended, repaired, altered or any connections or attachments are made thereto by a licensed plumber, the work must be inspected and approved by the plumbing inspector. Supply pipes are under the exclusive control of the department, and no person other than authorized employees or the department shall construct, repair or otherwise change or interfere with them in any way.

### **Sec. 17-23. Uses permitted.**

Water from the municipal waterworks systems shall not be taken or used for any purpose other than for domestic purposes or for the supply of manufacturing, business or other buildings, until a special permit shall have been issued therefore by the water and sewerage department, except as otherwise expressly permitted by ordinance.

### **Sec. 17-24. Special permit to use water in construction or repair work.**

- (a) An application for a special permit to use water from the municipal system in the construction or repair of buildings, or for any other construction or repair work, shall be made to the superintendent of the water and sewerage department upon

such prepared form as may be provided for such purpose by the department. The character of the work for which the water is to be used, and the estimated quantities of work shall be scheduled in the form provided, and all the requirements on the form shall be filled in or answered and certified to by the owner of such premises, or the contractor of the work to be done. An estimate of the value of the water to be used, at the established rates, will then be prepared by the superintendent, and a bill rendered for the same. Upon payment of the bill, a permit will be issued by the department, which permit must be posted and kept in a conspicuous place on the premises or locality where the work is being done. Should the permit be lost or destroyed, the department will supply a duplicate, for which a charge of twenty-five cents (\$0.25) will be made. Water must not be turned on or used until the permit shall be posted as above required. In case it shall be discovered that the water has been turned on or used before the posting of the permit, the water will be turned off by the department.

- (b) If it appears that the applicant for water to be used in the construction or repair of buildings or other construction work has misrepresented the quantity of work to be done, the supply of water to such party shall immediately be shut off and not again be turned on until a true and revised estimate of the quantity of such work be submitted, not until the water for the additional work shall be paid for to the department.

**Sec. 17-25. Notice to department of new pipes or fixtures, etc.**

The water and sewerage department shall be promptly notified of all new service pipes and plumbing fixtures, connected therewith, about to be installed, or extensions or alterations in existing service pipes, or fixtures connected with the water supply, and of all additions, alteration or repairs made that may affect, or may be used to affect the quantity of water supplied or used through the service pipe connected therewith.

**Sec. 17-26. Right of entry by officers or agents of departments; fraudulent use or waste of water.**

The proper officers of the department of water and sewerage and their agents and assistants may enter the premises of any water taker or user, at any reasonable time, in order to examine the pipes and fixtures, the quantity of water used, and the manner of its use, and in case of fraudulent use of town water on the part of any water taker, or unnecessary waste of water, the supply of such water may be stopped.

**Sec. 17-27. Fixtures to increase quantity of water; turning water on or off at curb cock.**

No person, other than an employee of the water and sewerage department, or a licensed plumber, shall alter or extend any service pipe, or any cock or fixture connected therewith, or place any additional fixture thereon, designed to or capable of increasing the quantity of water used through such service pipe, without a permit therefore in each case. No person except such as are specifically authorized so to do in this article shall turn off or turn on the water at any curb cock.

**Sec. 17-28. Interference with supply pipes or curb cocks by plumbers.**

Licensed plumbers shall not tap, repair or in any way interfere with water supply pipes or curb cocks.

**Sec. 17-29. By whom curb cocks to be opened or closed.**

Curb cocks shall under no circumstances be opened or closed by any person not an authorized employee of the department of water and sewerage. When new water service pipes are put into any premises, the curb cocks shall be left closed, and will thereafter be opened by the department only upon request of the owner, which request must be in writing if the department so requires. The holder of a permit to use water for building purposes or other such work, or his agents, shall not open or close or otherwise interfere with the same.

**Sec. 17-30. Service pipe to be used only for purpose for which designed; separate consumers on one property.**

- (a) No service pipe supplying water at fixture rates shall be used to furnish water in any manner to any premises or for any purpose which such service pipe was not designed or approved by the department of water and sewerage to supply. In case of a violation of this rule, the superintendent of the department may turn off the water from such service pipe.
- (b) Where one property is occupied by two (2) or more distinct families, or where a business building is occupied by two (2) or more persons, each family and each person shall be considered as separate premises, but a single charge will be made against the owner of the property, at the usual time, for the whole and said charge must be paid by said owner, and as are provided in regard to other overdue charges. The payment of the part of the whole charge by a tenant shall not invalidate or modify this rule.

**Sec. 17-31. Division of premises originally fitted with service pipe.**

Where a building originally built as a single building or premises and fitted with one (1) water service pipe, but capable of being divided by sale or otherwise, has been or may hereafter subdivide, the separate service pipes, within thirty (30) days from the date of notification by the department of water and sewerage so to do.

**Sec. 17-32. Approval of supply and service pipes; connection passing water from one property to another.**

Water from the municipal system shall be taken and used only through supply and service pipes established by or laid under the supervision or approval of the town. No connection by which water may pass from one property to another shall exist, even though the ownership of both properties may be the same.

**Sec. 17-33. Street or yard sprinklers.**



Street or yard sprinklers cannot be converted into hydrants, jets or fountains, or be allowed to run to waste, but be kept closed except when used for sprinklers.

**Sec. 17-34. Approval of unusual uses of water.**

Owners of property desiring any unusual construction, alterations, or attachments connected with the water supply must submit plans and specifications to the department of water and sewerage conditions under which the use will be allowed.

**Sec. 17-35. Excessive use or waste of water.**

Excessive or unnecessary use or waste of water, whether caused by carelessness or by defective leaky plumbing or fixtures, is strictly forbidden even where the service is metered. For a disregard of or repeated violations of this requirement, the water may be turned off by the department of water and sewerage; that no relief or adjustment shall be applied to water bills in cases of high water use due to leaks, broken lines, faulty plumbing and the like, if such leaks or breakages are from the meter to the premises, but if the leaks are in the meter and causes unusual bills and its verified to the satisfaction of the water superintendent, that person may make an adjustment to the sewer charge, but only if the extra water used did not re-enter the wastewater system for subsequent treatment. If adjustments are made, the amount of the adjustment shall be the sewer charge for the difference between the increased gallonage and the average gallonage used during the twelve (12) months preceding the increased usage.

**Sec. 17-36. Sprinkling hose.**

Hose used for sprinkling or washing purposes must not be used with a nozzle or a perforated sprinkle attached to the outer end thereof. No nozzle more than one-quarter inch in diameter at the point of delivery and no sprinkler whose aggregate capacity shall exceed that of a one-quarter-inch nozzle shall be used.

**Sec. 17-37. Private fire outlets.**

Where pipes are provided for fire protection on any premises, or where hose connections for fire apparatus are provided on any pipe, each connection or opening of such pipes shall have not less than twenty-five (25) feet of fire hose constantly attached thereto. No water shall be taken from or used through such openings or hose for any purpose other than that of extinguishing fires, except that, for purposes of testing said fire equipment, the department of water and sewerage may grant a special permit.

**Sec. 17-38. Water for sprinkling, fountains, and pools to be metered.**

Water for sprinkling purposes only, and for fountains and pools, will be supplied only by meter measurement and at meter rates and under such conditions as the council may prescribe. No permit will be granted for a continuous flow from any fixture, unless a meter is used.

**Sec. 17-39. Use of fire hydrants.**

Fire hydrants are provided for the purpose of extinguishing fires, and are to be opened and used only by the water and fire departments of the town, or by such persons as may be specially authorized by the water and sewerage department or by the town council.

**Sec. 17-40. Consumer permitting unlawful use.**

Any water consumer, having the right to use water from the municipal system, which permits others to use his fixtures for purposes not set forth in his contract, will have the service cut off at once.

**Sec. 17-41. Notice of discontinuance of use of water.**

Any owner of property proposing to discontinue the use of town water must give notice of such purpose to the superintendent of the water and sewerage department.

**Sec. 17-42. Turning on water cut off by the department.**

- (a) No water or sewer service shall at any time be supplied to any premises within the town when there are any outstanding and unpaid water or sewer charges for service to said premises regardless of by who incurred, which has not been paid within thirty (30) days after their due date. Where water is shut off or sewer service discontinued for nonpayment of charges, application must be made in writing to the town for resumption of service, and upon payment of all charges due, and a fee as prescribed by the rate schedule for the expense of turning on the water, water may be turned on again and sewer service resumed by the town. Where water or sewer service has been turned off or discontinued by the town for any reason, no person shall turn on the water or resume the use of sewers without the permission of the town.
- (b) If a structure is burned to such an extent by fire that the structure is condemned or if the structure is condemned and destroyed or destroyed by the owner or removed leaving a vacant lot or parcel of land; then and in that event, if a new structure is not begun or replaced within twelve (12) months of the date of destruction or removal, the owner shall pay a reconnect fee for water plus he shall pay a users fee as adopted under the water and sewer tap fee schedule in section 17-126.

**Sec. 17-43. Responsibility of plumbers making repairs in unoccupied houses.**

In all cases where plumbing repairs are made in unoccupied houses, the licensed plumber must, on completion of his work leave the curb cock closed, and if he shall fail or neglect to do so, he shall be liable for all damage arising there from.

**Sec. 17-44. Notice before shutting off water.**

Should it become necessary to shut off water from any section of the town because of accidents or for the purpose of making changes or repairs, the department of water and sewerage will endeavor to give timely notice to consumers affected thereby, and will, so far as practicable, use its best efforts to prevent inconvenience and damage arising from any such cause, but failure to give such notice will not render the town or the department responsible for liable for damages that may result there from or from any other cause.

**Sec. 17-45. Shutting off water for violation.**

The superintendent of the water and sewerage department may, at his discretion, shut off the water from the premises of any owner or tenant, violating any of the provisions of this chapter, but he shall, except as otherwise provided, give said owner or tenant at least twenty-four (24) hours notice before the water is so shut off.

**Sec. 17-46. Report by plumbing inspector of sewer permits.**

It shall be the duty of the plumbing inspector, whenever any permit shall be granted by him to connect with any town sewer line, or involving additional sewer service, to forthwith file a detailed report thereof with the department of water and sewerage.

**Sec. 17-47. Yard/lawn irrigation system.**

In order to preserve the health, safety and welfare of the citizens of the Town of Sandy Creek, all irrigation systems must have an approved anti-back flow device which meets the public works director's approval. For all water consumed, water and sewer charges shall apply without exception.

**Sec. 17-48. Irrigation of common areas in subdivision.**

All common areas as defined in section 15-19 of the Subdivision Regulations of the Code of the Town of Sandy Creek shall be allowed to have irrigation sprinklers for the common area and shall be responsible for the payment of a tap fee and payment for water use at a commercial rate. Should the common area cease to exist or should a residence be constructed thereon; then and in that event, a user fee shall be charged to the owner thereof.

**Sec. 17-49 – 17-59. Reserved.**

### ARTICLE III. SANITARY SEWERS\*

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\*State law references: Public enterprises, G.S. 160A-311 et seq.; revenue bonds, G.S. 159-80 et seq.; water and air resources, G.S. 143-211 et seq.; ground absorption sewage treatment and disposal, G.S. 130-166.62 et seq.; pipes below surface of streets and sidewalks, G.S. 160A-296; special assessments, G.S. 160A-216 et seq.; ordinances effective on city property outside limits, G.S. 160A-176; emission of pollutants or contaminants, G.S. 160A-185; abatement of health and safety nuisances, G.S. 160A-193.

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#### DIVISION 1. GENERALLY

##### **Sec. 17-60. Requirement of sewer use.**

Every person who owns improved property within the town shall be required within 60 days of date of notification from the town, make application and connection to the public sanitary system in accordance with the provisions of Chapter 17 of the Sandy Creek Town Ordinances.

##### **Sec. 17-61. Application for sewer service.**

Before actual connection in any case shall be made with the town sewer system, an application for sewer service or increased service shall be made by the owner or the duly authorized agent of the owner of such premises to the department of water and sewerage, on blank forms to be furnished by the department.

##### **Sec. 17-62. Obstructing sewers.**

No article whatsoever that is likely to cause the sewer or connection to choke up or become unobstructed shall be deposited or thrown into any sewer or sewer connection.

##### **Sec. 17-63. Permitting exhaust, steam or other injurious product to enter sewer.**

No exhaust, steam or gas, tar, waste from gas works, or other injurious products shall be allowed to enter any sanitary sewer. The council may prevent or discontinue any connection with a sanitary sewer which discharges any substance liable to injure the sewer.

##### **Sec. 17-64. Depositing substances through manholes, etc.**

No substance, either solid or liquid, shall be put, deposited or thrown into a sanitary sewer of the town, at any manhole, or in other way than through a duly authorized connection.

##### **Sec. 17-65. Duty to repair and clean house sewer, drain, or connection.**

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- (a) Whenever any house sewer, house drain, or connection with any main sewer or common drain becomes clogged, broken, out of order, or detrimental to the use of

the sewer or other drain, or unfit for the purposes of drainage, the owner, agent, occupant, or person having charge of any building or premises which is drained through such defective connection shall, when directed by the superintendent of waterworks and sewers, within ten (10) days after notice, in writing, from such superintendent, reconstruct, alter, cleanse, or repair his connections as the condition of such drain or house sewer may require.

- (b) In case of neglect or refusal to so reconstruct, alter, cleanse, or repair, the council may cause the same to be reconstructed, repaired, altered, or cleansed, as may be deemed expedient, at the expense of the owner, agent, occupant, or other person, as aforesaid.

#### **Sec. 17-66. Responsibility of tenant for obstructions.**

It shall be unlawful for any occupant or tenant of any house or premises in the town to obstruct or permit to be obstructed any sewer, sink or closet, or other connection of such sewer, located in or upon the premises occupied by such tenant or occupant and whenever any such tenant or occupant of such house or premises in the town shall vacate such premises or house and such sewer or sewer connection shall thereafter, and before any other occupant has moved into such building or premises be found obstructed, it shall be prima facie evidence that the same was obstructed or permitted to be obstructed by such former tenant or occupant, unless such former tenant or occupant shall have notified the owner, or the rental agent of the owner, of such building at the time he vacates the same.

#### **Sec. 17- 67 – 17-70. Reserved.**

### **DIVISION 2. OIL AND GREASE**

#### **Sec. 17-71. Purpose.**

This division is intended to aid in the prevention of sanitary sewer blockages and obstructions caused by the introduction, discharge and contribution of fats, oils, greases, grease complexes, scum, sludge and other organic polar compounds into the town's wastewater collection system or publicly-owned treatment works by commercial, industrial, institutional and all other non-residential activities.

#### **Sec. 17-72. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Commercial establishment and industrial establishment* shall mean any user that has the potential to use, contribute to or otherwise impact the town's wastewater collection system or POTW. Such establishments include, but are not limited to, maintenance facilities, repair facilities and equipment cleaning facilities.

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*Cooking establishment* shall mean any person primarily engaged in the activities of cooking, preparing, serving or otherwise making available for human consumption any

form of foodstuff, and which uses one (1) or more of the following cooking or preparation methods in connection with such activities: cooking or preparation by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, poaching, or any type of cooking or preparation that produces a hot non-potable product in or on a receptacle that requires washing, rinsing or other form of cleaning. Such establishments include, but are not limited to, restaurants, cafeterias, extended care facilities, school cafeterias (public and private), and daycare facilities where meals for more than six (6) children are prepared, served, or otherwise made available for human consumption.

*Grease* shall mean all greases, grease complexes, fats, oils, scum, sludge, and all other organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. Such substances are detectable and measurable using analytical procedures established in 40 C.F.R. 136.

*Grease trap or grease interceptor* shall mean a device for separating and retaining waterborne greases before the wastewater which contains such grease exits the grease trap or interceptor into the town's wastewater collection system or POTW. The grease trap or interceptor also collects settleable solids generated by or incidental to commercial, industrial and food preparation activities.

*Non-cooking establishment* shall mean any person primarily engaged in the rendering or preparation of pre-cooked foodstuffs that do not require or involve any form of cooking. Such establishments include, but are not limited to, establishments that are primarily engaged in the rendering preparation of cold dairy and frozen foodstuffs.

*Person* shall mean any actual person, corporation, partnership, unincorporated association, and any governmental entity or political subdivision and departments and agencies thereof.

*Town* shall mean the Town of Sandy Creek, Leland, North Carolina, and its utility service area.

*User* shall mean any person primarily engaged in any commercial, industrial, institutional, or other non-residential activity who introduces, contributes, or discharges (or causes or permits the introduction, contribution, or discharge of) wastewater into the town's wastewater collection system or POTW, including but not limited to any person who introduces, contributes, or discharges wastewater into the wastewater collection system or POTW through any mobile source.

*Wastewater* shall mean any substance introduced, contributed to, or discharged into the town's wastewater collection system or publicly-owned treatment works (POTW).

- (a) No later than one (1) year after adoption of this section, all users shall install grease traps or interceptors designed to limit the introduction, contribution, and discharge of greases into the town's wastewater collection system or POTW. Grease traps and interceptors with appropriate sampling or inspection points shall be installed at the user's expense whenever any user operates a commercial, industrial, or institutional cooking establishment. Grease traps and interceptors must have a minimum capacity of one thousand (1,000) gallons or more as required to affect a grease concentration maximum of two hundred (200) mg/l.
- (b) Alternative methods of compliance may be approved by the town if the user demonstrates that compliance with this section is impossible or impractical at the time of adoption of this section as a result of limited space. However, any such proposed alternative method of compliance will be required to meet the performance criteria in paragraph (1), and the user must adequately demonstrate to the satisfaction of the town that the proposed alternative method will satisfy those performance criteria. In addition, any such alternative method must be cleaned at a more frequent interval than is required of grease traps and interceptors under paragraph (3). Prior to approval of any such proposed alternative method of compliance, documentation of the proposed method's actual performance criteria must be submitted to the town's enforcement official or public utilities director for review and approval.
- (c) Grease traps and interceptors may also be required in other facilities, as deemed necessary by the town's designated enforcement official or public utilities director.
- (d) Upon the prior written approval of the public utilities director, non-cooking establishments may be exempted from the requirements of this section after an inspection of the subject premises and submission of adequate supporting documentation, as deemed necessary in the sole and absolute discretion of the public utilities director. At a minimum, such supporting documentation shall include: blueprints of the subject premises, a full and detailed description of the operations and activities at the subject premises, and a full and detailed list of all potential sources of grease at the subject premises.
- (e) Users shall empty and service grease traps and interceptors to comply with the performance criteria in paragraph (1) as often as necessary, but in any event no longer than every sixty (60) days. The town may require a specific schedule if deemed necessary by the public utilities director. Under-the-counter types of grease traps and interceptors shall be cleaned at least daily, and shall comply with the performance criteria in paragraph (a). There shall be no reintroduction of wastewater back into the grease trap or interceptor unless and until said wastewater has been proven to contain two hundred (200) mg/l or less of grease. Under no circumstances shall the sludge or scum layer be reintroduced or discharged into the town's wastewater collection system or POTW.

- (f) Users shall supply (i) an adequate sampling point downstream of the grease trap or interceptor, prior to mixing with other sanitary flows, and (ii) an accessible entry into each chamber of the grease tap or interceptor. The minimum requirement for the sampling point shall be a four-inch vertical clean-out. The town shall have the right to inspect at any time and without prior notice.
- (g) Users shall retain detailed records on-site for a minimum of three (3) years reflecting all maintenance carried out pursuant to this section. At a minimum, such records shall contain the following information: date of service, name of the employee involved, and a receipt reflecting all services rendered by the waste hauler providing the service.
- (h) Users are required to keep the grease trap or interceptor free of inorganic solids such as grit, towels, gloves, cigarettes, eating utensils, etc., which could clog or settle in the trap or interceptor, thereby reducing the effective volume or capacity of the trap or interceptor.
- (i) Users are required to ensure that all waste material removed from grease traps and interceptors is disposed of in a manner that complies with all federal, state and local statutes, rules, regulations, policies and ordinances.
- (j) Except as provided herein, for a period of one (1) year following the adoption of this section, no enforcement actions will be taken under this section for failure to achieve the performance criteria specified in paragraph (1) of this Code. If, during such period, (i) an obstruction of any of the town's sanitary sewer main(s) occurs and causes a sewer overflow, spill, leak or other event with any environmental impact, and (ii) such overflow, spill, leak or other event may be attributed in part or in whole to a particular user, then the town will seek enforcement action under the sewer use ordinance, and/or the pretreatment enforcement plan. For purposes of this section, an overflow, spill, leak of other event shall be deemed to have an environmental impact when (1) such overflow or other event involves an amount of wastewater equal to or in excess of one thousand (1,000) gallons, or (ii) any amount of wastewater reaches any body of surface water.

**Sec. 17-74 – 17-80. Reserved.**

#### **ARTICLE IV. SEPTIC TANKS**

**Sec. 17-81. Construction or installation.**

It shall be unlawful for any person to construct or install a septic tank or septic privy within the town in any place or location where the town has constructed and made accessible and available sanitary sewers and sanitary sewer lines and facilities.



#### **Sec. 17-81.1. Use of Septic Tanks.**

The use of septic tanks for domestic sewage treatment may be permitted where no public sewer lines are assessable and available, provided that, the septic tank is properly maintained and operated, and a permit is obtained from the town, and operated in accordance with all applicable health department requirements.

#### **Sec. 17-82. Repair or reconstruction.**

No septic tank or septic privy now in use and operation in the town where the residence served thereby is accessible to a sanitary sewer line provided by the town shall be hereafter repaired, rebuilt or reconstructed, nor shall such septic tank or septic privy located as aforesaid be further used or operated when repair, rebuilding or reconstruction is required. Every residence now using any such septic tank or septic privy shall be promptly connected with a sanitary sewer, if the same is accessible and available.

##### **Sec. 17-82.1. Abandoned septic tank.**

The property owner of any abandoned septic tank discovered in the Town of Sandy Creek which poses a threat to the property or to the health, safety and welfare of the citizens must immediately:

- (1) Remove all matter from the tank.
- (2) Render the tank safe by one of the following methods:
  - a. Collapse the tank.
  - b. Remove the tank and fill in the area with compacted soil.
  - c. Fill the tank with soil or concrete.

#### **Sec. 17-83. Reserved.**

#### **Sec. 17-84. Persons not to engage in construction, repair, etc.**

It shall be unlawful for any plumber or other person to construct, repair or reconstruct or rebuild any septic tank or septic privy within the town if the residence served or to be served thereby is accessible to and available to a town sanitary sewer line.

#### **Sec. 17-85. Report of installation or alteration of plumbing required.**

All plumbers or other persons who may install or alter the plumbing in any building in the town or in any building or premises using or equipped for the use of the town water, including water fixtures or plumbing for connection service to sanitary sewer lines, shall as soon as such plumbing is completed, make a report of the work done to the superintendent of the water and sewerage department, specifying in full the kind of fixtures installed, the location of all stop cocks installed and the nature of any construction or alterations made. Such report shall be in writing on forms to be furnished by the department aforesaid and shall be signed by the plumber or person having the contract for such work.

**ARTICLE V. EXTENSION OF WATER AND SANITARY  
SEWER SERVICE**

**Sec. 17-101. Application for and approval of extensions required.**

- (a) Any property owner, or owners, desiring water or sanitary sewer service shall apply in writing to the director of public works, requesting the extension of water or sanitary sewer service or both. No request for the extension of services shall be considered unless submitted in writing in accordance with the requirements of this article.
- (b) The town may require the applicant to submit as part of the written application such information, plans or other data as may be required to adequately determine if the requirements of this article are to be met.
- (c) When an application is made for a water sewer extension or both to serve an area or development that is planned as part of a larger development project or subdivision, all of which is not to be developed at the time application is made, the owner or owners shall submit plans in sufficient detail in order to determine the size and type facilities which will be necessary to serve the entire development or subdivision when completed.
- (d) No extension to the water or sanitary sewer system of the town shall be made and no application shall be approved except in accordance with the requirements of this article.

**Sec. 17-102. General requirements.**

All extensions of either water or sanitary sewer service shall be governed by the following:

- (1) The minimum distance for any extension of a water main or sanitary sewer shall be determined by the council. In general, the minimum distance for extensions shall be one (1) platted block, or in the case of water mains from the main line valve to valve and in the case of sanitary sewer extensions from manhole to manhole.
- (2) The size of water mains and sanitary sewer mains to be installed and the other required system facilities shall be determined by the council in accordance with the recognized standards and accepted engineering practices and design and in accordance with applicable system plans adopted by the council.

**Sec. 17-103. Financing extensions within corporate limits.**

- (a) Extensions to approved subdivisions of developed property:
  - (1) When application is received requesting the extension of water or sanitary sewer service or both, to service property within the corporate limits which is developed or had been previously approved as a subdivision, or where streets have previously been dedicated and accepted by the town, and where

been dedicated and accepted by the town, and where such area is not part of a new subdivision which has not been approved by the town, the director of public works or other person designated by the town council shall estimate the cost of the project and present the application for such extension, the estimated cost and other required information by the council and, subject to the availability of funds, the town will install or have installed by contract, under supervision, the extensions which have been approved, and such extension shall be financed in accordance with this subsection.

- (2) When an approved water or sanitary sewer extension project has been completed and the total cost thereof has been determined, one hundred (100) percent of the total cost of such water or sanitary sewer extension or both shall be assessed against the property owners whose property abuts upon such extension at an equal rate per front foot in accordance with and under the authority granted to the town by general statutes.
  - (3) Any property owner or owners shall have the opportunity to pay his or their proportionate share of the cost of such extensions after the assessment roll is confirmed rather than paying his or their share in equal annual installments with interest as required by the statute.
- (b) Extensions to proposed developments or subdivisions:
- (1) When an application is received requesting the extension of water or sanitary sewer service or both to proposed developments or subdivisions within the corporate limits which have not been approved by the council:
    - (a) The director of public works or other person designated by the town council shall estimate the cost of the project and present the application for such extension, the estimated cost and other required information to the council for their approval.
    - (b) The applicant must make a cash deposit equal to ten (10) percent of the preliminary cost estimate to secure a contract for preparation of the construction plans and specifications.
    - (c) After construction bids are received by the town, the remainder of the total deposit required under the appropriate procedure must be made by the applicant before construction will be authorized. Failure to make deposits necessary for construction authorization within thirty (30) days after receipt of bids will result in forfeiture of the actual engineering and administrative costs, not to exceed the original ten (10) percent deposit.
    - (d) If the application is approved and subject to the approval of the development or subdivision by the town, and subject to the availability of funds, the town will install or have installed by contract under its supervision each extensions which shall be financed in accordance with this subsection.
  - (2) Prior to beginning of any construction, the property owner or owners shall advance to the town funds in an amount equal to one hundred (100) percent of the total estimated cost of the proposed extensions.

Upon receipt of such funds, a written contract shall be entered into by and between the town and property owner or owners, under which the town will use such funds upon the following terms and conditions:

- (a) The funds shall be deposited in a special account of the town for which a separate accounting will be made.
- (b) At the time construction of the extension is completed and the total cost thereof is determined, if the amount deposited exceeds one hundred (100) percent of the total cost, that portion in excess of the cost will be refunded to the owner or owners without interest. If the amount deposited is less than one hundred (100) percent of the total cost, the owner or owners shall pay such additional amount to the town and this condition shall be a part of the written contract.
- (c) No refund or reimbursement of funds shall be made to the owner or owners who pay one hundred (100) percent of the total cost of extension under the requirements of this subsection except as provided for in paragraph b. above.
- (d) Facilities excluded in determining owner's share of cost:
  - (1) When the town determines that it is advisable to install larger size facilities than are necessary to serve the property requesting such extension, the difference in the cost of the larger size facilities over and above the cost of the facilities required to serve the property requesting such extension shall be paid with funds advanced by the developer and refunded to the developer at the rate of twenty (20) percent, per year, of the water and sewer income from the development requesting such extension up to a maximum of twenty (20) years.
  - (2) System facilities installed for general public use which is expressly identified in the application or agreement approved by the council shall be paid for by the town and excluded from the total cost to be shared by the property owner or owners as provided for herein.
- (e) Exceptions authorized. Nothing in this article shall prevent the council from extending water or sanitary sewer mains or both within the corporate limits on their own motion without receipt of an application from property owners, and to assess the cost of such extensions in accordance with subsection (a) of this section when, in the opinion of the council the general public interest demands such extension of service.

#### **Sec. 17-104. Specifications; ownership.**

Any water mains or sanitary sewer mains extended under the provisions of this article shall be installed and constructed in accordance with the approved plans, specifications and other requirements of the town. All facilities installed under this provision of this article shall become the sole property of the town and under its jurisdiction and control for any

and all purposes whatsoever at the time such facilities are connected to the town system. When required, the property owner or owners shall grant to the town such utility easements as the town may require.

**Sec. 17-105. Additional subdivision improvement requirement.**

The town council may in its discretion, as a condition under which water or sewer service or both will be extended, require the owner or owners of a proposed subdivision to enter into an agreement to improve the proposed streets therein at their own expense and in accordance with the ordinances then in force governing the acceptance of public streets for the town.

**Sec. 17-106 – 17-120. Reserved.**

**ARTICLE VI. WATER AND SEWER RATES, CHARGES  
AND BILLING PROCEDURE\***

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**\*Cross references:** Town treasurer, 2-121 et seq.

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**Sec. 17-121. Assessment of water and sewage charges.**

- (a) The customer of every property or premises within the town shall be responsible for the payment of the prescribed rates and charges for water and sewer services on an annual basis as set forth in the ordinances and regulations of the town.
- (b) If the customer is also the property owner:  
The authorized rates and charges for water or sewer service furnished by the town to any property or premises within the town shall constitute a valid lien on said property or premises, and upon any nonpayment of said rates or charges said lien may be enforced and the property or premises sold to enforce said lien.

**Sec. 17-122. Water rates.**

- (a) Water rates to be used in billing for water services shall be in accordance with the schedule of rates which is on file in the town clerk's office.
- (b) Each account shall be charged at the monthly fixed charge as indicated in the rate schedule which is on file in the town clerk's office, plus a variable charge for all water used. Where the water system is available, the property owners shall be required to tap on to the system.

**Sec. 17-123. Mandatory sewer.**

It shall be mandatory if water is furnished that sewer services shall be mandatory also.

**Sec. 17-124. Sewer rates.**

Sewer rates to be used in billing for wastewater treatment shall be as on file in the town clerks offices.

**Sec. 17-125. Billing.**

- (a) All bills and accounts shall be in the name of and sent for payment to the customer of the property being served in the same manner as outlined for water bills.
- (b) The director of public works shall keep complete records covering the costs of all sewer taps and connections made and such information may be used by the town council in considering any periodic adjustment to the tap fee.

**Sec. 17-126. Tap in fees.**

- (a) Water and sewer tap fees are on file in the town clerks office.
- (b) These rates which are on file in the town clerks office shall apply to all structures constructed within the town. In addition to the water and sewer tap fees, a per unit user's fee will be charged on all construction in the Sandy Creek service area and motel units with a kitchen or motel rooms shall be charged a user's fee per room. The construction of all water/sewer lines and/or the installation of all water/sewer taps must be inspected and approved by the town. User's fees shall be placed in a capital reserve fund for future expansion, construction repairs or alterations. All tap fees and user's fees must be paid prior to the installation of the service.
- (c) If a structure is burned to such an extent by fire that the structure is condemned, or if the structure is condemned and destroyed by the owner, or removed leaving a vacant lot or parcel of land; then, and in the event, if a new structure is not begun or replaced within twelve (12) months of the date of destruction or removal, the owner shall pay a tap fee for water plus he shall pay a user's fee as adopted under the water and sewer tap fee schedule.

**Sec. 17-127. User fees.**

- (a) The user's fee for water and sewer shall be on file in the town clerks office.
- (b) The user's fee shall apply to all services whether inside or outside of corporate limits and shall be payable upon the issuance of a building permit.
- (c) All of the user's fees shall apply to individual, residential, duplex, motels, or multifamily units, excepting there from any property owner within the corporate limits who wishes to replace or upgrade his premises shall not be subject to those fees unless or until he replaces more units than he originally had on his property and the additional units placed thereon over and above the original units shall be charged per unit under the schedule hereinafter set out.
- (d) All used fees shall be accrued to the benefit of the sewer expansion reserve fund and all user fees collected by the water fund shall be appropriated to the sewer expansion reserve fund.

**Sec. 17-128. Impact fees.**

On all voluntary annexations there shall be a charge on impact fee per unit on all single and multifamily residential units which is on file in the town clerks office, which shall be payable upon the issuance of a building permit. Any voluntary annexation which occurs as a single family unit or multifamily units located upon the land shall pay a fee per unit which is on file in the town clerks office which shall be payable upon annexation.

**Sec. 17-129. Reserved.**

## **ARTICLE VII. STORM WATER SERVICE, RATES, CHARGES AND BILLING PROCEDURE**

**Sec. 17-130. Assessment of storm water charges.**

- (a) The owner of every property or premises within the town shall be responsible for the payment of the prescribed rates and charges for storm water services on a monthly basis as set forth in the ordinances and regulations of the town, and any transfer or conveyance of ownership of said property or premises shall, in the absence of other agreement between the new owner and the town, carry with it all rights, responsibilities and obligations of the former owner with respect to water or sewer service and charges therefore.
- (b) The authorized rates and charges for storm water service furnished by the town to any property or premises within the town shall constitute a valid lien on said property or premises, and upon any nonpayment of said rates or charges said lien may be enforced and the property or premises sold to enforce said lien.
- (c) The owner of every vacant lot within the Town of Sandy Creek shall pay a one time storm water impact fee when applying for a building permit and thereafter is charged by the prescribed rate as established by council.
- (d) All assessments and fees collected for the storm water system shall be specifically designated as a storm water fee and shall be used for no other purpose.

**Sec. 17-131. Storm water rates.**

- (a) Rates to be used in billing for storm water services shall be in accordance with the schedule of rates which is on file in the town clerk's office.

**Sec. 17-132 – 17-139. Reserved.**

## **ARTICLE VIII. WATER CONSERVATION**

**Sec. 17-140. Definition of water shortage.**

A water shortage shall be deemed to exist when water demand by customers connected to the Town of Sandy Creek Public Works Department water system reaches the point where contained or increased demand will equal or exceed the system supply and

transmission capabilities. When demand results in the condition whereby customers cannot be supplied with water to protect their health and safety then the demand must be substantially curtailed to relieve the water shortage.

**Sec. 17-141. Declaration of applicability of this article.**

In the event it appears that water demand on the SCPWD water system may exceed supply and transmission capabilities, the director may recommend to the town council that voluntary water conservation be implemented. The director, following consultation with the town council, may declare a stage I water shortage condition advisory requesting voluntary conservation measures. Should the measures taken fail to relieve the demand on the system, the director may advance to a stage II or stage III water shortage condition. The director, following consultation with the town council, may declare that a stage II or stage III water shortage condition exists.

**Sec. 17-142. Stage I water shortage condition.**

In the event of a stage I water shortage condition is declared the following guidelines shall apply:

- (1) An extensive publicity campaign will be initiated using public media and specialized methods to inform the public of impending or existing water shortage.
- (2) Conservation measures will be encouraged and recommended.

**Sec. 17-143. Stage II water shortage condition.**

In the event a stage II water shortage condition is declared the following guidelines shall apply:

- (1) Limit car washing to the minimum;
- (2) Limit lawn and garden watering to that which is necessary for plants to survive;
- (3) Do not wash down outside areas such as sidewalks, patios, parking lots, service bays or aprons, etc.;
- (4) Do not leave faucets running while shaving or rinsing dishes;
- (5) Water shrubbery to the minimum required reusing household water when possible;
- (6) Limit use of clothes washers and dish washers and when used, operate fully loaded;
- (7) Use showers for bathing, rather than bathtub and limit showers to no more than four (4) minutes;
- (8) Limit flushing of toilets by multiple usages;
- (9) The use of disposable and biodegradable dishes is encouraged;
- (10) Use flow restrictive and water saving devices;
- (11) Limit hours of operation of water-cooled air conditioners; and
- (12) All residents, businesses, and institutions are requested to temporarily delay new landscape work until the water shortage has ended.



**Sec. 17-144. Compliance – Stage II water shortage condition.**

- a) In the event the director issues a declaration of a stage II water shortage condition, then it shall be unlawful for any person, firm or corporation, to use or permit the use of water from the water system for any purpose hereinafter set forth until such time as the declaration of water shortage has been rescinded. In exercising the authority for declaring a water shortage condition, consideration shall be given to water shortage levels and available sources of supply, available usable storage on hand, drawn down rates, the project supply capability, outlook for precipitation, daily water patterns and availability of water from other sources.
- b) In the event a stage I water shortage is in effect and demand increases equal or exceeds the system supply a stage II water shortage condition may be proclaimed. In addition to the voluntary guidelines already in effect, it shall be unlawful to use water supplied by the water system in the following manner:
  - (1) To water lawns, grass, shrubbery, trees, flowers and vegetable gardens
  - (2) To fill newly constructed swimming and/or wading pools or refill swimming and/or wading pools which have been drained;
  - (3) To wash automobiles, trucks, trailers, board, airplanes, or any other type of mobile equipment, including commercial washing;
  - (4) To wash down outside area such as streets, driveways, service station aprons, parking lots, office buildings, exteriors of existing or newly constructed homes or apartments, sidewalks, or patios, or to use water for other similar purposes;
  - (5) To use water from public or private fire hydrants for any purpose other than fire suppression or other public emergency;
  - (6) To operate or induce water into any ornamental fountain, pool or pond or other structure making similar use of water;
  - (7) To serve drinking water in restaurants, cafeterias, or other food establishments, except upon request;
  - (8) To operate water cooled air conditioners or other equipment that does not recycle cooling water, except when health and safety are adversely affected; and
  - (9) To use water for any unnecessary purpose or to intentionally waster water.

**Sec. 17-145. Stage III water shortage condition.**

- a) In the event the director issues a declaration of stage III water shortage condition then it shall be unlawful for any person, firm or corporation to use or permit the use of water from the water system for any purpose hereinafter set forth until such time as the declaration of water shortage has been rescinded. In exercising the authority for declaring a water shortage condition consideration shall be given to water storage levels and available sources of supply available usable storage, on hand, drawdown rates, the projected supply capability, outlook for precipitation, daily water use patterns and availability of water from other sources.

b) In the event of a stage II water shortage condition exists and water usage exceeds the system supply, then a stage III water shortage condition may be declared. In addition to the restrictions of stage I and stage II water shortage conditions the following restrictions shall also apply:

- (1) Induce water into any pool;
- (2) Use water outside a structure for any use other than an emergency involving a fire;
- (3) Fire protection to be maintained by drafting of ponds, rivers, etc., where possible;
- (4) The use of disposable utensils and plates is encouraged and recommended at all eating establishments; and
- (5) To operate an evaporative air conditioner which recycles water except during operating hours of business.

**Sec. 17-146. Lifting of restrictions imposed during a water shortage.**

Water shortage conditions will expire when the director, after consultation with the town council deems that the condition which caused the alert has abated.

## **CHAPTER 18**

### **VEHICLES FOR HIRE**

**Sec. 18-1 thru 18-15 Reserved.**

## Chapter 19

### ZONING\*

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\*Cross reference – Administration, Ch. 2; planning and zoning commission established, 2-41; comprehensive plan adopted, 2-50; animals, Ch. 4; dogs prohibited from running at large in the town, 4-16; buildings and building regulations, Ch. 5; fire district boundaries, 5-76; minimum housing code adopted, 5-106; numbering of buildings required, 5-121; fences, 5-141 et seq.; requirements for moving buildings, 5-156 et seq.; appeals to board of adjustment upon refusal to building inspection to issue permit to move building, 5-161; fire protection and prevention, Ch. 6; obstructing hydrants prohibited, 6-2; garbage and trash, Ch. 7; licenses and business regulations, Ch. 8; yard sales 8-17 et seq.; peddling and soliciting, 8-81 et seq.; solicitation prohibited in certain areas, 8-81; motor vehicles and traffic, Ch. 10; nuisances, Ch. 11; certain noises prohibited, 11-31 et seq.; parks and recreation, Ch. 12; subdivisions, Ch. 15; utilities, Ch. 17.

State law references – Zoning, G.S. 160A-381 et seq.; building setback lines, G.S. 160A-306.

## ZONING

19-1

*Awning* shall mean a roof like projection which extends from a building to shelter passerby from the weather. The sides of an awning, canopy, or marquee shall be open except for necessary supports, planting boxes and signs.

*Barrier* shall mean curbs, walls, fences, or similar protective devices designed and located to protect public right-of-way and adjoining properties.

*Basement* shall mean a story partly underground but having at least sixty (60) percent of its height above the average level of the adjoining ground.

*Beach* shall mean a stretch of land, either public or private, along the Atlantic Ocean starting within the town's jurisdiction, up to first row of vegetation or structure.

*Block* shall mean the length of street between two (2) street intersections.

*Board* shall mean the board of adjustment.

*Boardinghouse* shall mean rooming house as defined herein.

*Bill board* shall mean any sign or advertisement used as an outdoor display for the purpose of making anything known, the origin or point of sale of which is remote from such display. (See definition of sign below).

*Buffer* shall mean an area or means of separating two (2) adjacent areas. The design, composition, height, and location of such facilities shall be approved by the town zoning enforcement officer.

*Building* shall mean a structure enclosed and isolated by exterior walls constructed or used for residence, business, industry, or other public or private purposes, or accessory thereto, and including tents, lunch wagons, dining cars and trailers. All provisions of building area will apply to term building. The term building shall be constructed as if followed by the words or part thereof.

## ZONING

19-1

*Common areas and facilities* shall mean those areas of a housing project and of a property upon which it is located that are for the use and enjoyment of the owner of family units located in the project. The areas may include the land, roofs, main walls, elevators, staircases, lobbies, halls, parking space, and the community facilities.

*Common party walls* shall mean a wall, used jointly by two (2) parties under easement agreement, erected upon a line separating two (2) parcels of land, each of which is a separate real estate entity.

*Common open space* shall mean open areas, the use of which is shared by all tenants and/or property owners, as distinguished from space designated for their private use.

*Condominium* shall mean a system of individual fee ownership of complete dwelling units in a multiunit structure, whose ownership is not time shared, combined with joint ownership or common areas of the structure and land.

*Day care centers* shall mean institutions for the care or instruction of preschool age children. The term day care center includes kindergartens, day nurseries, nursery schools, or any similar establishment.

*District* shall mean a portion of the incorporated and/or extraterritorial area of the town within which certain regulations and requirements or variances or combinations thereof apply under the provisions of this chapter. (See section 19-76, the Kure beach zoning districts.)

*Dwelling* shall mean a building designed for or used by one (1) or more families for residential purposes.

*Dwelling modular* shall mean a movable or portable dwelling constructed to be transported as a unit and designed to be placed upon a permanent foundation.

*Dwelling, multifamily* shall mean a building or portion thereof used or designed as a residence for three (3) or more families having complete independent dwelling units.

## ZONING

19-1

*Flood* shall mean a temporary rise in stream flow that results in water overtopping its banks and inundating areas adjacent to the watercourse.

*Floodplain* shall mean the relatively flat area or low land adjacent to the channel of a river, stream or watercourse, lake or other body of standing water which has been or may be covered by floodwater.

*Flood proofing* shall mean a combination of structural provisions, changes or adjustments to properties and/or structure subject to flooding primarily for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings.

*Flood protection elevation* shall mean the elevation to which structures and uses regulated by this chapter are required to be elevated or flood proofed. This elevation is shown on the official Flood Hazard Boundary Map (FHBM).

*Garage, commercial* shall mean a closed structure for automotive vehicles whose primary function is to derive revenue from service and or sale of parts for mechanical machinery.

*Garage, private* shall mean an area of the building whose primary purpose is the storage of private vehicles.

*Gross floor area* shall mean the total floor space within the exterior walls of the main structure on all floors of floor space devoted to a particular use including the space occupied by such supporting facilities as storage areas, work areas, toilets, hallways, stairways, mechanical equipment and the like.

*Home occupation* shall mean an occupation for gain or support conducted only by members of the immediate or extended family residing on the premises, provided use conducted entirely within a dwelling which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof and provided that no article is sold or offered for sale except such as may be produced by members of the family residing on the premises.

## ZONING

19-1

*Lot width* shall mean the mean horizontal distance between the side lot lines measured at right angles to the depth.

*Major thoroughfares* shall mean the thoroughfare plan for the Town of Sandy Creek.

*Manufactured home* shall mean a moveable, portable or manufactured dwelling that shall have a living space of one thousand two hundred eighty (1,280) sq. ft. or more constructed or manufactured to be transported on its own chassis and designed without a permanent foundation, whether or not a permanent foundation is subsequently provided, which includes two (2) or more units separately transportable but designed to be joined into one (1) integral unit. The term manufactured homes shall also mean mobile homes for purposes of this code. The term manufactured or mobile home does not include recreational vehicle.

*Manufacturing* shall mean the making of goods and articles by hand or by machinery with a division of labor.

*Mobile or manufactured home lot* shall mean a plot of ground within a mobile home park designed for the accommodation of one (1) mobile home.

*Motel* shall mean a building intended or designed to be used as tourist lodgings which are rented to short term transients where a general kitchen and dining room are not required. (See tourist lodgings)

*Municipality* shall mean the Town of Sandy Creek.



## ZONING

*Off-street loading* shall mean loading space located on the same lot as the principal use.

*Off-street parking* shall mean parking spaces located on the same lot as the principal use. (See parking-remote)

*On-street loading* shall mean loading space located on public property near or adjacent to principal business.

*On-street parking* shall mean parking spaces located on public streets.

*Open porch* shall mean a porch open except for wire screening. A porch shall not be considered open if enclosed by either a permanent or detachable glass sack.

*Ordinance* shall mean this ordinance, including any amendments. Whenever the effective date of the ordinance is referred to, the reference includes the effective date of any amendment to it.

*Parking-remote* shall mean parking space provided on any land within one thousand (1,000) feet of the main entrance to a principal use.

*Parking area, gross* shall mean the total area provided for the off-street parking of automobiles, including parking stalls and the necessary driveway access space thereto. Walkways, planting strips, and other landscaped areas shall not be counted as gross parking space.

*Parking, combination space* shall mean a lot used for parking that is shared by at least two (2) parties.

*Parking space* shall mean the off-street or on-street space available for the parking of motor vehicles.

*Planning and zoning commission* see G.S. sections 160A-360 through 160A-362 and Code section 2-41 et seq.

## ZONING

19-1

*Service station* shall mean an establishment used for the servicing of automobiles, including the sale of gasoline, oil, grease, and minor accessories and washing and polishing, but excluding the sale of automobiles, body repairing, and painting.

*Sign* shall mean any words, lettering, numerals, parts of letters, or numerals, figures, phrases, sentences, emblems, devices, trade names or trademarks by which anything is made known, including any surface, fabric or other material or structure designed to carry such devices, such as are used to designate or attract attention to an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are exposed to public view, and used to attract attention. This definition shall not include the flag, badge, or insignia of any government unit or relaxation used for monetary gain.

*Special use permit* shall mean certain property uses that are allowed in the several districts where these uses would not otherwise be acceptable.

*Special use* shall mean certain property uses that are allowed in the several districts where these uses would not otherwise be acceptable.

*Stable, private* shall mean a stable with capacity for not more than two (2) horses, provided, however, that a private stable may exceed a two-horse capacity if the premises whereon such stable is situated contains an area of not less than two thousand (2,000) square feet for each horse accommodated, provided, however, this chapter shall not be construed to repeal, alter, or amend any ordinance of the town relating to the maintenance of animals or livestock within the corporate limits.

*Story* shall mean that part of a building comprised between a floor and the floor or roof next above.

*Story, half* shall mean a story under a gable, hip or gambrel roof, the wall plates of which on a least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

## ZONING

19-1

*Travel parks* shall mean an area intended and equipped for the temporary parking of vehicles and tents designed for travel, recreational and vacation dwellings.

*Travel trailer* shall mean any vehicle or structure designed to be transported and intended for human occupancy as a dwelling for short periods of time, and containing limited or no kitchen or bathroom facilities. Travel trailers shall include the following:

- (1) House trailer which shall mean a vehicular, portable structure built on a wheel designed to be towed by a self-propelled vehicle for use as a temporary dwelling for travel, recreational and vacation uses, having a body length not exceeding thirty-two (32) feet when equipped for road travel.
- (2) Pick-up coach which shall mean a portable structure for use as a temporary dwelling for travel, recreational and vacation uses, designed to be mounted on a truck chassis for transportation, and to be used for a temporary dwelling while either mounted or dismounted.
- (3) Motor home which shall mean a portable, temporary dwelling to be used for travel, recreational and vacation uses, constructed as an integral part of a self-propelled vehicle.
- (4) Camping trailer which shall mean a folding structure manufactured of metal, wood, canvas and/or other materials, mounted on wheels and designed for travel, recreational and vocational uses.
- (5) Self-contained travel trailer which shall mean a travel trailer which can operate independent of connections to sewer, water, and electrical systems. It contains a water-flushed toilet, lavatory, shower and kitchen, all of which are connected water storage and sewage holding tanks located within the unit.
- (6) Dependent trailer which shall mean a travel trailer which does not have a flush toilet, a lavatory, bath or shower.

*Use* shall mean the purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

## ZONING

19-2

- (b) The term Town of Sandy Creek shall have the same meaning as the term City of Sandy Creek and the extraterritorial jurisdiction.

Cross reference – Definitions and rules of construction generally, 1-2.

### **Sec. 19-3. Short title.**

This chapter shall be known as the “Zoning Ordinance of the Town of Sandy Creek and its Extraterritorial Jurisdiction”, and the map herein adopted by reference which is on file in the town clerk’s office is identified by the title, “Zoning Map of the Town of Sandy Creek and its Extraterritorial Jurisdiction”, and shall be known as the “Zoning Map.”

### **Sec. 19-4. Purpose and authority.**

- (a) The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and the general welfare of the community. They are designed to lessen congestion in the streets, to secure safety from the fire, panic and other dangers to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewerage, and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community.
- (b) The provisions of this chapter are adopted under authority granted by the General Assembly of the State of North Carolina, particularly G.S. Chapter 160A, article 19, part 3.

## ZONING

19-41

- (a) A board of adjustment is hereby established. The word board as used in this section shall be construed to mean the board of commissioners of Sandy Creek, N.C.
- (b) The board shall consist of five (5) members.

**Secs. 19-42 – 19-43. Reserved.**

**Sec. 19-44. Mayor's term; duties.**

- (a) The chairman of the board of adjustment shall be the Mayor.
- (b) The Mayor's term of office shall be for two (2) years until his successor is elected.
- (c) The Mayor shall decide upon all points of order and procedure unless directed otherwise by a majority of the board in session at the time.
- (d) The chairman shall appoint any committees found necessary to investigate any matter before the board.

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\*Cross reference – Boards, commissions, committees, 2-31 et seq.  
State law reference – Board of adjustment, G.S. 160A-388.

**Sec. 19-45. Reserved.**

**Sec. 19-46. Powers.**

The powers and duties of the board of adjustment shall be those as specified by G.S. Section 160A-388 or as may be amended by the North Carolina General Assembly.

**Sec. 19-47 – 19-60. Reserved.**

### **DIVISION 3. AMENDMENTS\***

**Sec. 19-61. Changes and amendments.**

The town council may, on its own motion or upon motion or upon petition by any person within the zoning jurisdiction of the town, after public notice and hearing,

## ARTICLE III. DISTRICT REGULATIONS\*

### DIVISION 1. GENERALLY

#### Sec. 19-76. Districts.

In order to achieve the purposes of this chapter as set forth in section 19-4, the town is hereby divided into the districts listed below:

RA-1 and R-1 Residential district, low density

RA-1A Residential district, low density

RA-2 Residential district, medium density

RA-2A Residential district; Reserved

RA-MH Residential manufactured home district

RA-3 Residential district; Reserved

RA-3A Residential district; Reserved

RA-4 Residential district, Reserved

B-1 Business district

B-2 Neighborhood business district; Reserved

B- 3 Business district; Reserved

M-F Multifamily district

C-D Conservation district

## **ZONING**

### **Sec. 19-78. Zoning effect on building and land and uses.**

No building or land shall hereafter be used and no building or part shall be erected, moved or altered except in conformity with the regulations specified herein for the district in which it is located except as may be provided in this chapter.

### **Sec. 19-79. District regulations.**

Within the districts as indicated on the zoning map, no building or land shall be used and no building shall be erected or altered which is intended or designed to be used in whole or part for any use other than those listed as permitted for that district. A building or the use thereof may be considered changed when its form of occupancy or operation is substantially changed beyond those permitted uses as specified within the designated districts. A use not specifically addresses by the zoning ordinance shall be expressly prohibited so as not to alter or endanger the purpose of the zoning pertaining to each district and to insure that the original intent and purpose as specified in G.S. Section 160A-383 is maintained.

### **Sec. 19-80. Town buildings and facilities.**

Town building and facilities shall be permitted in all zoning districts and shall not be considered to be nonconforming to the area in which they are located.

These include, but are not limited to, the town hall, fire station, town garage, various lift stations, well sites, and water storage tanks.

### **Secs. 19-81 – 19-90. Reserved.**

**Sec. 19-93. Modification to required lot area and required yards.**

A dwelling may be erected on a lot or plot having less than the minimum area and width in section 19-93, provided the same existed under one (1) ownership, to include heirs at law or legators, by virtue of a recorded plat or deed recorded in the office of the register of deeds of Brunswick County prior to the original passage of this requirement. The following modification to required lot area and required yards shall apply in this case:

- (1) Required lot area shall be forty-four thousand (44,000) square feet.
- (2) Front yards shall mean no modification allowed in front yards.
- (3) Side yards may be reduced to not less than five (5) feet on each side and the total width of the two (2) side yards shall not be less than ten (10) feet.
- (4) Rear yards may be reduced to not less than fifteen (15) feet.
- (5) Reserved corner lot side yard shall not be allowed to reduce the build able width of the main building to less than twenty (20) feet.

**Sec. 19-94. Parking.**

The parking requirements for the RA-1 district are in sections 19-334 through 19-339.

**Sec. 19-95. Signs.**

The regulations and requirements for signs in the RA-1 district are in the sign code, article VI of this chapter.

**Secs. 19-96 thru 19-106. Reserved.**



## **DIVISION 4. RA-2. RESIDENTIAL DISTRICT, MEDIUM DENSITY**

### **Sec. 19-151. Purpose.**

The RA-2 medium density residential district is established for medium density residential development and other compatible uses. It may act as a transition between higher density urban development and lower density residential development. Land uses considered to be harmful to the health, safety and welfare of district residents shall be prohibited from infringing upon the livability of residential areas within such district.

### **Sec. 19-152. Dimensional requirements.**

The following dimensional requirements shall apply to all uses in the RA-2 district unless other requirements are stated herein.

- (1) Minimum required lot area shall be fifteen thousand (15,000) square feet;
- (2) Lot width at front setback line seventy (70) feet;
- (3) Minimum required front yard and corner lot side yard shall be thirty (30) feet;
- (4) Minimum required side yard shall be seven. five (7.5) feet;
- (5) Minimum required rear yard shall be fifteen (15) feet;
- (6) Maximum height of structure thirty-five (35) feet; and
- (7) Off-street parking shall be provided as required in section 19-334 et. seq.

### **Sec. 19-153. Signs.**

The regulations and requirements for signs in the RA-2 district are in the sign code, article VI of this chapter.

### **Secs. 19-154 thru 19-165. Reserved.**

## **DIVISION 6. RA-2MH, RESIDENTIAL MANUFACTURED HOME DISTRICT**

### **Sec. 19-176. Purpose.**

The RMH residential manufactured home district is established to accommodate individual class A manufactured homes. It affords residents of the town an alternate housing type and thereby promotes the health, safety and general welfare of the community.

### **Sec. 19-177. Dimensional requirements.**

The following dimensional requirements shall apply to all uses in the RA-2MH district unless other requirements are stated herein.

- (1) Minimum required lot area shall be fifteen thousand (15,000) square feet;
- (2) Lot width at front setback line ninety (90) feet;
- (3) Minimum required front yard and corner lot side yard shall be thirty (30) feet;
- (4) Minimum required side yard shall be seven.five (7.5) feet;
- (5) Minimum required rear yard shall be fifteen (15) feet;
- (6) Maximum height of structure thirty-five (35) feet; and
- (7) Off-street parking shall be provided as required in section 19-334 et. seq.

### **Sec. 19-178. Signs.**

The regulations and requirements for signs in the RA-2MH district are in the sign code, article VI of this chapter.

### **Secs. 19-179 thru 19-185. Reserved.**

(23)Professional offices.

**Sec. 19-244. Setbacks.**

All areas zoned B-1 except the established fire district shall have a minimum setback of three (3) feet front yard, three (3) feet side yard, and three (3) feet rear yard.

**Sec. 19-245. Signs.**

The regulations and requirements for signs in the B-1 district are in the sign code, article VI of this chapter.

**Sec. 19-246. Parking.**

Parking shall be provided as required in sections 19-334 through 19-339.

**Secs. 19-247 thru 19-262. Reserved.**

**DIVISON 12. B-3 BUSINESS DISTRICT**

**Secs. 19-281 thru 19-301. Reserved.**

## **DIVISION 14. R-MF RESIDENTIAL MULTIFAMILY DISTRICT**

### **Sec. 19-311. Purpose.**

The multifamily district is established for moderate to high density multiple family development of varying types and designs. This could include apartments, townhouses, condominiums or single family homes. Such district functions as a transitional land use between intensive nonresidential uses or higher density residential areas and lower density residential areas. This district is designed to respond to the varying housing needs of the community while affording a reasonable range of choice, type and location of housing units within the town; however, single family homes may only be constructed on lots of at least five thousand (5,000) square feet in size and a width of not less than fifty (50) feet. (40 feet on a cul-de-sac)

### **Sec. 19-312. Dimensional requirements.**

The following dimensional requirements shall apply to all uses other than single family homes in the R-MF district unless other requirements are stated herein.

- (1) Minimum required lot area shall be ten thousand (10,000) square feet;
- (2) Lot width at front setback line one hundred (100) feet;
- (3) Minimum required front yard and corner lot side yard shall be thirty (30) feet;
- (4) Minimum required side yard shall be seven. five (7.5) feet;
- (5) Minimum required rear yard shall be thirty (30) feet;
- (6) Maximum height of structure thirty-five (35) feet;
- (7) Maximum development density shall be thirteen (13.0) units per acres; and
- (8) Off-street parking shall be provided as required in section 19-334 et. seq.

### **Sec. 19-313. Signs.**

The regulations and requirements for signs in the R-MF district are in the sign code, article VI of this chapter.

## **ZONING**

### **ARTICLE IV. SUPPLEMENTAL DISTRICT REGULATIONS**

#### **Sec. 19-320. Control of setbacks.**

Any structure requiring a building permit shall not be permitted in the setback area with the exception of a fence.

#### **Sec. 19-321. Reduction of a lot and yard areas prohibited.**

No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this chapter. No yard or open space about any building for that purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space on an adjoining premises or open space on a lot whereon a building is to be erected.

#### **Sec. 19-322. Relationship of building to lot.**

Every building hereafter erected, moved or structurally altered shall be located on a lot and in no case shall there be more than one (1) principal residential building and the customary accessory buildings on the lot.

#### **Sec. 19-323. Lot of record.**

Where the owner of a lot at the time of the adoption of the ordinance from which this chapter was derived or his successor in title thereto.

## ZONING

### **Sec. 19-326. Location of accessory buildings on residential lots.**

Location of accessory building shall be in the rear yard and be at least 15 feet from the rear lot line and 10 feet from the side lot line, except on a street where the required setback shall be 15 feet. Accessory buildings larger than six hundred (600) square feet shall meet the setback requirements of a residence.

### **Sec. 19-327. Exceptions and modifications.**

The dimensional requirements of this chapter shall be complied with in all respects except that under the specific conditions as outlined in this chapter the requirements may be waived or modified as stated, and in addition the dimensional requirements may be changed or modified by the board of adjustment as provided in section 19-41 et seq.

### **Sec. 19-328. Modification to front yards in residential districts.**

Where lots comprising twenty-five (25) percent or more of the frontage on one side of a block are developed with buildings at the time of the adoption of this ordinance, no building hereafter erected or structurally altered shall project beyond the average front yard line so established, provided, further that this regulation shall not be so interpreted as to require a front yard depth of more than thirty (30) feet. No front yard depth need exceed the average provided for the two (2) adjoining buildings, one on either side thereof, if such two (2) adjoining buildings are less than two hundred (200) feet apart.

### **Sec. 19-329. Modification of required yards.**

Architectural features such as fire escapes, cornices, eaves, steps, gutters, buttresses, open or enclosed fire escapes, outside stairways, balconies, and similar features, but no carports or porches, may project not more than eighteen (18) inches into any required yard.

### **Sec. 19-330. House trailers, trailers and campers regulated.**

No trailer, house trailer, or camper as defined in section 19-1, shall be parked within the corporate limits of the town or its extraterritorial jurisdiction and used for any purpose unless otherwise specified in the permitted uses in the zoning ordinances. Such ordinances are not intended to prevent location of trailers in a designated trailer park as defined in section 19-1.

## ZONING

### **Sec. 19-336. Combination of required parking space.**

The required parking space for any number of separate uses may be combined in one (1) lot but the required spaces assigned to one use may not be assigned to another use.

### **Sec. 19-337. Requirements for parking lots in residential districts.**

Where parking lots for more than five (5) cars are permitted or required in residential districts, the following provisions shall be complied with:

- (1) The lot may be used only for parking and not for any type of sales, storage, repair work, dismantling or servicing;
- (2) All entrances, exits, barricades at sidewalks, and drainage plans shall be approved by the town council in accordance with the town codes and constructed before occupancy;
- (3) Only one (1) entrance and exit sign, not larger than two (2) square feet unilluminated prescribing parking regulations may be erected at each entrance or exit. No other signs shall be permitted.

### **Sec. 19-338. Handicapped parking requirements.**

One parking space with a width of twelve (12) feet five (5) inches and a length of twenty (20) feet will be provided for the handicapped in parking lots of businesses and multiple dwelling units. One (1) additional handicapped parking space shall be provided for each additional fifty (50) parking spaces. Handicapped parking spaces will be placed as close to the main entrance as possible and shall be clearly designated by a handicap sign.

### **Sec. 19-339. Minimum parking requirements.**

The number of off-street parking spaces required by this section shall be provided on the same or contiguous lot with the principal use of this section and the required number of off-street parking spaces specified for each use shall be considered as the absolute minimum. In addition a developer shall evaluate his own needs to determine if they are



## ZONING

### Public and semipublic uses

#### Required parking

- |   |  |
|---|--|
| (8) Churches  | One (1) parking space for each fifteen (15) feet of pew space.   |
| (9) Municipal auditorium and recreational buildings.          | One (1) parking space for each eight (8) single seats.   |
| (10) Restaurants  | One (1) parking space for each four (4) single seats plus one (1) for each employee on duty.                                     |
| (11) Restaurant or conference center within a hotel or motel. | One (1) extra parking space for each eight (8) single seats in restaurant and conference center plus requirements for (4) above. |

### Retail and office uses

#### Required parking

- |  |  |
|--|--|
| (12) General or professional offices other than medical doctors. | Three (3) parking spaces for each individual or professional in business.                            |
| (13) Banks.  | One (1) parking space for each two hundred (200) square feet plus one (1) for each employee on duty. |
| (14) Service stations operator's residence.                      | Two (2) parking spaces for each grease rack and two (2) spaces for each wash rack.                   |

### Public and semipublic uses

#### Required parking

- |                                     |   |
|-------------------------------------|---|
| (15) Theaters.                      | One (1) parking space for each four (4) single seats.   |
| (16) Retail uses not listed office. | One (1) parking space for each two hundred (200) sq. ft. of gross floor space plus one (1) for each employee. |

## ZONING

- (1) *Minimum single lot requirements.* Where the owner of a lot, or his successor in title thereto does not own sufficient land to enable him to conform to the dimensional requirement of this chapter, the lot may be used as a building site for a single family dwelling, provided that the minimum back, front, and side yard requirements for the district in which the lot is located are met.
- (2) *Extension in setback space.* A structure that is nonconforming as to setback requirements but conforms to the permissible use within the district in which it is located shall not be enlarged or extended in any direction (horizontally or vertically) into the required open space of the setback area, except for energy conservation enclosures in subsection (9), below, and changes in roof design in subsection (10), below.
- (3) *Change of use.* A nonconforming use shall be changed to only those uses that are permitted in this chapter for the district in which such nonconforming use is located.
- (4) *Extension in use.* There shall be no extension in a nonconforming use that would increase building occupancy, building square footage, production, servicing or utility demands.
- (5) *Repairs and alterations.* Normal maintenance, repairs, and improvements of nonconforming buildings shall be permitted provided that it does not violate sections (2)-(4) above.
- (6) *Damage or destruction.* Any nonconforming structure or any building containing a nonconforming use which has been damaged, destroyed, demolished, or removed either by accident or by natural causes may be reconstructed and used as before if a building permit is applied for within one (1) year from the date of destruction, provided, it does not violate subsections (2)-(4) above.
- (7) *Cessation.* If active operation of a nonconforming use is discontinued for a period of twelve (12) consecutive months, such nonconforming use shall thereafter be used only for a conforming use. A cessation will also occur when a structure is willfully removed. Once a nonconforming situation has been changed to a conforming situation, it shall not revert back to a nonconforming situation.

## ZONING

*Free standing sign* shall mean an outdoor sign when such sign is supported by upright or braces in or upon the ground. Ground sign does not mean billboard.

*Marquee sign* shall mean a projecting sign attached to or hung from a marquee and such marquee shall be known to mean a canopy or covered structure projecting from and supported by a building, when such a canopy or covered structure extends beyond the building line or property line.

*Portable sign* shall mean any sign which is not securely and permanently attached to the ground or a building.

*Projecting sign* shall mean an outdoor sign which is affixed to any building wall or structure and extends beyond the building wall, structure, building line or property line.

*Roof sign* shall mean an outdoor sign erected, constructed, or attached above or to the roof of any building.

*Shingle sign* shall mean a projection or wall sign attached to a building.

*Sign* shall mean any outdoor device or display consisting of letters, numbers, symbols, pictures, illustrations, announcements, cutouts, insignia, trademarks, or demonstrations designed to advertise, inform, identify or to attract the attention of persons. A sign shall be construed to be a display or device containing elements organized, related, and composed to form a single unit. In the event material is displayed in a random or unconnected fashion without organized relationship of the components, each component or element shall be considered a single sign.

*Temporary sign* shall mean a sign to be used on an interim basis.

*Wall sign* shall mean an outdoor sign that is affixed to or painted on the wall of any building, providing it does not project more than twelve (12) inches from the building.

of a candidacy, whichever occurs first. Political signs will not be allowed within the right-of-way in the town limits or its extraterritorial jurisdiction.

1246

## **ZONING**

### **Sec. 19-374. Permit required; administration.**

- (a) The building inspector shall issue a permit of the erection or construction only for a sign which meets the requirements of this article.
- (b) Filing procedures for permits to erect, hang, place, paint, or alter the structure of a sign shall be submitted on forms obtainable from the building inspector.
- (c) Each application shall be accompanied by a plan showing the following:
  - (1) Area of the sign;
  - (2) Size, character, general layout and designs proposed for painted displays;
  - (3) The method and type of illumination, if any;
  - (4) The location proposed for such signs in relation to property lines, zoning district boundaries, right-of-way lines, and existing signs;
  - (5) If conditions warrant it, the building inspector may require such additional information as will enable him to determine if such sign is to be erected in conformance with the requirements of this article; and
  - (6) Payment of fee to obtain building permit.

### **Sec. 19-375. No sign shall be erected that:**

- (1) Obstructs the sight distance at intersections or along public right-of-ways; or

Temporary signs may be used one (1) time for a period of not longer than sixty (60) days.

1248

## ZONING

### **Sec. 19-380. Regulations for Outdoor Advertising Structures.**

#### **(A) Outdoor Advertising Structures**

A sign or billboard designed to carry outdoor advertising including all free standing off-premise signs. On premise signs existing as of the effective date of this ordinance that exceeds the maximum requirements allowed shall be considered as Outdoor Advertising Structures.

#### **(B) New Outdoor Advertising Structures**

Permits may be issued only in the following locations and in accordance with the following standards:

- (1) Permitted Location: Property zoned B-1 (Business District).
- (2) Maximum Sign Face Area: 378 square feet on major thoroughfares, 300 square feet on minor thoroughfares and 100 square feet on all other public roads.
- (3) Maximum Height: 35 feet.
- (4) Maximum Number of Sign Faces: 1 per side of sign not to exceed two sign faces.
- (5) Setbacks: A minimum of fifteen feet from each property line.

#### **(C) Existing Outdoor Advertising Structures**

Existing outdoor advertising structures shall be considered a legal nonconforming use and shall be allowed to remain, but shall not be altered in any way.

#### **(D) Distance From Centerline**

Free standing signs shall be located within six hundred and sixty (660) feet of the centerline of the roadway to which they are oriented.

#### **Spacing:**

- (1) On major thoroughfares, the minimum spacing requirements between off-premise signs shall be three thousand (3,000) linear feet from any other off-premise sign. Major thoroughfares are consistent with and the same as those listed in the most recently-adopted Brunswick County Thoroughfare Plan.
- (2) On minor thoroughfares, the minimum spacing requirements between off-premise signs shall be two thousand (2,000) linear feet from any other off-premise sign.

(I) Height

Off-premises ground signs shall not exceed thirty-five (35) feet above the roadway surface from which the sign is to be viewed.

ADOPTED this the 9<sup>th</sup> day of October, 2006.

1249.1

**ZONING**

**Sec. 19-381. Nonconforming signs.**

All signs or advertising structures located in districts where they would not be permitted as a new use under the terms of these regulations are hereby declared to be nonconforming uses. However, signs that are nonconforming as a result of improper illumination shall be made to conform to the requirements of this article within six (6) months.

**Sec. 19-382. Schedule of sign regulations.**

The following is the schedule of sign regulations.

ZONES	BILL BOARD	FREE STANDING	MARQUEE	PORT- TABLE	PRO- JECTING	ROOF SIGN	SHINGLE	TEMP.	WALL	MAX SIZE	MAX HEIGHT
RA-1	X										
RESERVED RA-1A	X										
RESERVED RA-2	X	X			X	X	X	X	X	N/A	N/A
RESERVED RA-2A	X		X	X							
RESERVED RA-2T	X										
RESERVED RA-3											
RESERVED RA-3A											
RESERVED RA-4	X			X					X	50 SQ FT	35'
RESERVED RB-1											
RESERVED B1											
RESERVED B2	X			X						0	35'
RESERVED B3											

**ORDINANCE AMENDING CHAPTER 19. ZONING OF THE TOWN OF SANDY  
CREEK, NORTH CAROLINA, CODE OF ORDINANCES  
(2025-01 ZTA)**

**LEGISLATIVE INTENT/PURPOSE:**

**WHEREAS**, the Town has enacted a set of regulations that promote public health, safety, and general welfare and regulate development within the Town's jurisdiction; and

**WHEREAS**, to promote the public health, safety, and general welfare and to promote the best interests of the Town and community, it is necessary from time to time for the Planning Board and Town Council to consider appropriate revisions, modifications and updates to the Town's development regulations; and

**WHEREAS**, the Town desires to update its Zoning Ordinance; and

**WHEREAS**, local governments are authorized by N.C.G.S. §§160D-102, 160D-108(d), 160D-603, and 160D-702 to amend ordinances regulating land use within their jurisdiction; and,

**WHEREAS**, the Planning Board, at its February 17, 2025 meeting, hereby finds that the proposed update of the Town's UDO (i) is neither consistent nor inconsistent with Section 6, Municipal Guidance for Sandy Creek outlined in the *Blueprint Brunswick 2040* Comprehensive Plan as there is no specific policies pertaining to manufactured homes, and (ii) that it is in the public interest; and

**WHEREAS**, pursuant to N. C. General Statutes and Town ordinances, a public hearing, properly noticed, was held on April 7, 2025, where public comment was heard and considered by the Town Council regarding this issue; and

**WHEREAS**, the Town Council hereby finds that the proposed update of the Town's UDO (i) is neither consistent or inconsistent with Section 6, Municipal Guidance for Sandy Creek outlined in the *Blueprint Brunswick 2040* Comprehensive Plan as there is no specific policies pertaining to manufactured homes, and (ii) that it is in the public interest of the Town of Sandy Creek and its planning jurisdiction.

**NOW, THEREFORE, BE IT ORDAINED:**

**Section 1.** Chapter 19, Section 19-1. Definitions, is hereby amended as follows by deleting or modifying existing definitions for mobile home and mobile home lot to read as follows:

*Manufactured* home shall mean a movable, portable or manufactured dwelling that shall have a living space of one thousand two hundred eighty (1280) square feet or more, constructed or manufactured to be transported on its own chassis and designed without a permanent foundation, whether or not a permanent foundation is subsequently provided, which includes two (2) or more units separately transportable but designed to be joined into one (1) integral unit. The term manufactured homes shall also mean mobile home for purposes of this code. The term manufactured or mobile home does not include recreational vehicle.



**ORDINANCE AMENDING CHAPTER 19. ZONING OF THE TOWN OF SANDY  
CREEK, NORTH CAROLINA, CODE OF ORDINANCES**

**LEGISLATIVE INTENT/PURPOSE:**

**WHEREAS**, the Town has enacted a set of regulations that promote public health, safety, and general welfare and regulate development within the Town's jurisdiction; and

**WHEREAS**, to promote the public health, safety, and general welfare and to promote the best interests of the Town and community, it is necessary from time to time for the Planning Board and Town Council to consider appropriate revisions, modifications and updates to the Town's development regulations; and

**WHEREAS**, the Town desires to update its Zoning Ordinance; and

**WHEREAS**, local governments are authorized by N.C.G.S. §§160D-102, 160D-108(d), 160D-603, and 160D-702 to amend ordinances regulating land use within their jurisdiction; and,

**WHEREAS**, the Planning Board, at its July 15, 2024 meeting, hereby finds that the proposed update of the Town's UDO (i) is consistent with Section 6, Municipal Plans for Sandy Creek outlined in the *Blueprint Brunswick 2040* Comprehensive Plan Town's 2016 Land Use Plan, and policy 2 which states "Update the zoning ordinance to help manage growth" and (ii) that it is in the public interest because it will advance the public health, safety, and/or welfare of the Town of Sandy Creek through updated statutory procedures and requirements for development within the Town's planning jurisdiction; and

**WHEREAS**, pursuant to N. C. General Statutes and Town ordinances, a public hearing, properly noticed, was held on August 5, 2024, where public comment was heard and considered by the Town Council regarding this issue; and

**WHEREAS**, the Town Council hereby finds that the proposed update of the Town's UDO (i) is consistent with Section 6, Municipal Plans for Sandy Creek outlined in the *Blueprint Brunswick 2040* Comprehensive Plan Town's 2016 Land Use Plan, and policy 2 which states "Update the zoning ordinance to help manage growth" and (ii) that it is in the public interest because it will advance the public health, safety, and/or welfare of the Town of Sandy Creek through updated statutory procedures and requirements for development within the Town's planning jurisdiction.

**NOW, THEREFORE, BE IT ORDAINED:**

**Section 1.** Chapter 19, Section 19-1. Definitions, is hereby amended as follows by inserting new definitions in alphabetical order or modifying existing definitions as follows:

*Commercial recreation facilities* shall mean establishments engaged in providing indoor or outdoor amusement or entertainment services and include uses such as amusement parks, outdoor theaters, and sports facilities. This use does not include athletic clubs, places of worship, counseling in an office setting, parks, private clubs or lodges, private community centers, soup kitchens, or social services facilities.

- a. Agritourism
- b. Aquaculture
- c. Biofuel production for commercial sale
- d. Livestock, as defined in NCGS 106-581.1
- e. Malting House
- f. Marketing and selling of agricultural products
- g. Packing, treading, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on a farm and similar activities incidental to the operation of a farm
- h. Public or private grain warehouse or warehouse operation
- i. Storage and use of materials for agricultural purposes

(2) Residential

- a. Apartment
- b. Community boat and RV storage (to be used by residents of the neighborhood only, not for use by the general public)
- c. Dwelling, Single Family Detached
- d. Dwelling, Single Family Attached
- e. Dwelling, Two-Family
- f. Dwelling, Multifamily
- g. Family Care Home, provided there is a minimum 0.5-mile separation from another family care home or group living facility as measured from property line to property line
- h. Mobile Home Park - SUP
- i. Upper Story Residential
- j. Accessory Dwelling Units
- k. Accessory structures and buildings
- l. Multiple principal dwellings on single parcel
- m. Group Living, except as listed below:
  - i. Group Care Home - SUP
- n. Home Occupation

(3) Outdoor Lodging, except as prohibited in this section:

- a. Government Operated Facilities
- b. Travel Park -- SUP
- c. Prohibited
  - i. Nudist Travel Parks

(4) Public and Civic Uses, except as prohibited in this section:

- a. Community Service Facilities
- b. Educational Facilities
- c. Government and Community Buildings
- d. Heliport -- SUP
- e. Medical and dental Facilities
- f. Parks and open areas
- g. Passenger Terminals
- h. Places of Worship
- i. Social Service Facilities and Emergency Shelters -- SUP
- j. Temporary Emergency Shelter during state of emergency
- k. Utilities

- c. Contractor's office with no outdoor storage operations
- d. Craft and woodworking shops
- e. L.P. Gas Filling Facility (principal and accessory)
- f. Research and Development

#### **Sec. 19-304. Dimensional Requirements.**

- (1) **Minimum District Size.** Twenty-five (25) contiguous acres. For purposes of this section, contiguous shall include property that is separated by the width of a street right-of-way, creek or river, or the right-of-way of a railroad or other public service corporation.
- (2) **Buffers.** This Section shall establish the buffers for the RB-1 zoning district and shall not be subject to Section 15-77(a). There shall be a minimum periphery vegetated buffer of 30 feet adjacent to currently established residential uses to achieve 100% opacity within three (3) years of planting. Fences and privacy walls may be placed within the required periphery buffer, and the buffer width may be reduced to fifteen (15) feet with the use of a fence and landscaping combination, or if single-family detached dwellings or single-family attached dwellings are adjacent to single family residential zoning or use. If a combination of fence and landscaping is utilized, then the vegetation shall be located between the fence and the property line. No buffer is required within the RB-1 zoning district between uses.
- (3) **Recreation and Open Space.** This Section shall modify the provisions of Section 15-77(c)(4) as specifically stated herein for the RB-1 zoning district. Up to 50% of the required open space as determined by Section 15-77(b) may be left in its natural state and planning board approval shall not be required. The remaining land shall be suitable for active recreation.
- (4) **Lots.** There shall be no minimum lot dimensions for the RB-1 zoning district. Single Family, Detached residential lot widths may begin at 32 feet.
- (5) **Setbacks.** Single Family structures shall have the following minimum required setbacks:
  - a. 15 ft front yard
  - b. 10 ft between buildings
  - c. 10 ft rear yard
- (6) **Height.** This Section shall establish the height for the RB-1 zoning district and shall not be subject to Section 19-332. Structures may be 50 ft in height.
- (7) **Density.** This Section shall establish the density for the RB-1 zoning district and shall not be subject to Section 19-331. Maximum residential density shall be thirteen (13) units per acre. For mixed use, commercial and residential structures, the density shall be based only on that portion of the structure dedicated to residential use. *Commentary: For example, if 75% of a mixed building is to be utilized for residential purposes, then 75% of the lot area will be used in calculating the residential density permitted.*

#### **Sec. 19-305. Parking.**

Off street parking shall be provided as required by Section 19-344 et. seq.

#### **Sec. 19-306 Signs.**

The regulations and requirements for signs in the RB-1 district are in the sign code, Article VI of this chapter.

#### **Secs. 19-307 thru 19-310. Reserved.**

Adopted this 5<sup>th</sup> day of August 2024.

BY:

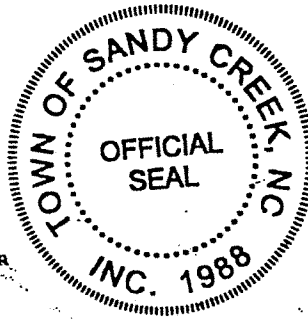
Mel Miller

Mayor

ATTEST:

Joel Cleo

Town Clerk



## CHAPTER 20

### ORDINANCE NO. 88-4

AN ORDINANCE GRANTING TO GWC COMMUNICATIONS COMPANY, L.P., ITS SUCCESSORS AND ASSIGNS, HEREINAFTER REFERRED TO AS "GRANTEE", FOR A TERM OF FIFTEEN (15) YEARS, THE RIGHTS, AUTHORITY, POWER AND FRANCHISE TO ESTABLISH, CONSTRUCT, ACQUIRE, MAINTAIN, AND OPERATE A COMMUNITY ANTENNA TELEVISION SYSTEM WITHIN THE TOWN OF SANDY CREEK, NORTH CAROLINA, TO RENDER, FURNISH, SELL, AND DISTRIBUTE TELEVISION, RADIO, AND ENTERTAINMENT PROGRAMS WITH SAID TOWN AND ENVIRONS THEREOF, AND TO USE AND OCCUPY THE STREETS, ALLEYS, EASEMENTS, AND OTHER PUBLIC PLACES OF SAID TOWN AS MAY BE NECESSARY TO CONSTRUCT SAID SYSTEM.

BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF SANDY CREEK, N.C.;

Section 1: That there is hereby granted to GWC COMMUNICATINS COMPANY, L.P. for the full term of fifteen (15) year from the date this franchise is accepted in writing by Grantee, which acceptance shall be filled within sixty (60) days from the date hereof, the non-exclusive right, power, authority, and franchise to establish, construct, acquire, maintain, and operate a Community Antenna Television system with the Town of Sandy Creek, herein called the Town; to render, furnish, sell, and distribute television signals and programs and entertainment for all purposes to the inhabitants of the Town and its environs; and to use and occupy the streets, alleys and easements, and other public places of said Town as the same now exist or may hereafter exist, for the Grantee's Community Television system, including the right to enter and construct, erect, locate, relocate, repair, and rebuild in, on, under, along, over and across the streets, alleys, easements, and other public places of said Town all towers, poles, cables, amplifiers, conduits, and other facilities owned, leased, or otherwise used by the Grantee for the furnishing of a Community Antenna Television service within the Town and environs thereof during the continuance of the franchise hereby granted.

Section 2: The Grantee's transmission and distribution system poles, wired, and appurtenances shall be located, erected and maintained so as not be endanger or interfere with any improvements the Town may deem proper to make, or to hinder unnecessarily or obstruct the free public used of the streets, alleys, easements, bridges, or other public property. The Grantee's transmission and distribution system shall in no way interfere with other public utilities now in existence and in operation, nor will it interfere with the continued operations of said public utilities.

Section 2(a): The Grantee shall have the right to set, erect, install, and maintain its own poles for the mounting of its amplifiers, cable, and appurtenances; provided that the Grantee shall keep and maintain a complete set of maps showing the location of all such poles and that the Town shall be provided with a copy of this map; said map to be kept up to date and accurate at all times, such updating to be the responsibility of the Grantee; provided further, that Grantee shall make every reasonable available effort to utilize existing poles where possible.

Section 2(b): In the maintenance and operation of its transmission and distribution system in the streets, alleys, easements, and other public places and in the course of any new construction or addition to its facilities; the Grantee shall proceed so as to cause the least possible inconvenience to the general public. All excavations shall be properly guarded and protected and shall be replaced and the surface restored in a good condition promptly after completion of such work. The Grantee shall at all times comply with any and all rules and regulations which the Town has made or makes applying to the public generally with reference to removal or replacement of pavement and to excavations in the streets or other public places.

Section 3: The Grantee shall have the authority to promulgate such rules, regulations, terms, and conditions for its business as shall be reasonably necessary to enable the Grantee to exercise the rights and perform the services under the franchise, and to assure uninterrupted service to each and all customers. The Grantee shall have the right and power to fix, charge, collect, and receive reasonable fees for the Community Antenna Television services, provided however, Grantee shall file with the Town a schedule of its proposed rates and charges for its proposed services prior to commencement of activities under this ordinance.

Section 4: The Town reserves the right of reasonable regulation of the erection, construction, or installation of any facilities by the Grantee and to reasonably designate where such facilities are to be placed within the public ways and places.

Section 5: In the event that the Town shall lawfully elect to change or alter the location or grade of any street, alley, easement, or other public place, or change to relocate or replace its utility poles at any time during the existence of this franchise, the Grantee shall, upon reasonable notice given by the Town, remove, relay, and/or relocate any system installation affected by such change at Grantee's expense.

Section 6: Grantee shall, upon the request of any person holding a building or moving permit, temporary raise or lower its wires to permit the moving of buildings and other structures. The actual and necessary expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall be given not less than 72 hours notice to arrange for such temporary changes.

Section 7: Grantee shall have the authority to trim trees overhanging the streets, alleys, sidewalks and public places and easements of the Town so as to prevent the branches of such trees from coming in contact with the wires, cables, and appurtenances of the Grantee, all trimming to be done under the supervision and direction of the Town and by and at the expense of the Grantee.

Section 8: The Grantee shall, at all times during the existence of this franchise, be subject to all lawful exercise of the police power by the Town and to such reasonable regulations as the Town shall hereafter by ordinance or resolution provide.

Section 9: The Grantee shall pay to the Town, on or before March 15 of each year, a one percent (1%) franchise fee based on gross annual subscriber revenues received for cable television in the Town for the preceding twelve (12) months. Gross annual subscriber revenue shall consist only of monthly service charges authorized by this franchise or amendments hereto, but shall not include installation, late payment, returned check, transfer service, move outlet and similar one-time charges and fees. The Grantee shall make his full books of accounting and records available for inspection by an authorized agent of the Town.

No other fee, charge, or consideration other than ad valorem taxes shall be imposed upon the Grantee. At the time of each payment due thereafter, the Grantee shall provide to the Town an annual summary report showing gross annual subscriber revenues received during the preceding year.

Section 10: It is expressly understood by and between the Grantee and the Town that the Grantee shall defend the Town from any claim, demand, or suit whatsoever resulting from the alleged negligence on the part of the Grantee in the construction, operation or maintenance of its system in the Town and shall hold the Town harmless from all loss sustained by the Town on account of any suit, judgment, execution, claim or demand whatsoever resulting from negligence on the part of the Grantee in the construction, operation, or maintenance of its system. For this purpose the Grantee

shall maintain bodily injury liability insurance in an amount not less than Three Hundred Thousand and 00/100 Dollars (\$300,000.00) for any one person and Five Hundred Thousand and 00/100 Dollars (\$500,000.00) for any one accident of injury and property damage liability insurance in any amount not less than Fifty Thousand and 00/100 Dollars (\$50,000).

Section 11: The Town reserves the right to terminate this agreement and rescind all rights and authorities herein granted for just cause.

Section 12: All prior ordinances and parts of prior ordinances in conflict herewith are hereby repealed as of the effective date of this ordinance.

Section 13: All provisions of this ordinance shall be binding upon the Grantee whether expressly stated herein or not and all of the rights, powers, authorities, grants, and privileges secured by this ordinance to the Grantee shall be held to inure to the benefit of the Grantee, and all successors, lessees and assigns of the Grantee.

Section 14: The Grantee may renew the franchise for an additional fifteen (15) year term, subject to all provisions of the franchise having been reasonably and satisfactorily met by the Grantee.

Section 15: If any portion of this ordinance shall be found to be at variance with the rules and regulations of the Federal Communications Commission, as presently constituted, or as hereafter enacted, this ordinance shall be modified so as to conform with the requirement of the Federal Communications Commission as they pertain to the regulation of a Cable Television system; and the Grantee shall in turn be required to operate under this ordinance as hereafter constituted as it may be redrawn to conform with applicable rules and regulations of the Federal Communications Commission.

Section 16: The Grantee shall assume the costs of publication of this franchise as such publication is required by law.

Section 17: In the event of failure of the Grantee to complete construction of the system within one (1) year from the enactment of this ordinance, the Town shall have the right, on reasonable notice to the Grantee, to declare this ordinance and rights of this franchise hereunder forfeited.



Section 18: This ordinance shall become effective immediately upon passage.

Passed and approved by the governing body of the Town of Sandy Creek, N.C. this \_\_\_\_\_,  
1996.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Town Clerk

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE GRANTING A FRANCHISE TO ACC CABLE COMMUNICATIONS FL-VA, LLC D/B/A ADEPHIA CABLE COMMUNICATIONS (THE GRANTEE) TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE SYSTEM IN THE TOWN OF SANDY CREEK, NORTH CAROLINA (THE GRANTOR); SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM:

PREAMBLE

The Grantor does ordain that it is the public interest to permit the use of public rights-of-way and easements for the construction, maintenance, and operation of a Cable System under the terms of this Franchise, said public purpose being specifically the enhancement of communications within the territorial boundaries of the Grantor.

SECTION 1. STATEMENT OF INTENT AND PURPOSE.

The Grantor intends, by the adoption of this Franchise, to continue the development and operation of a Cable System. This development can contribute significantly to the communication needs and desires of many individuals, associations and institutions.

SECTION 2. SHORT TITLE.

This ordinance shall be known and cited as the "Sandy Creek Franchise Ordinance." Within this document it shall be referred to as "this Franchise" or "the Franchise."

SECTION 3. DEFINITIONS.

For the purpose of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

1. "Basic Service Tier" means a service tier which includes the retransmission of local television broadcast signals.
2. "Cable Act" means the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992, the Telecommunications Act of 1996 and any amendments thereto.
3. "Cable Service" means (i) the one-way transmission to subscribers of video programming or other programming service, and (ii) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
4. "Cable System" or "System" shall mean a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community as defined in the Cable Act.

5. "FCC" means the Federal Communications Commission, its designee, or any successor thereto.
6. "Gross Revenues" shall mean all revenues from the operation of the System within the franchise area received by Grantee from subscribers from the basic service tier of programming and for any optional tier of programming service (including premium and pay-per-view services), customer equipment and installation charges, disconnection and reconnection charges. Gross revenues shall not include that share of fees remitted to suppliers from programming services, deposits, refunds and credits made to subscribers, bad debts, non-subscriber revenues, revenue from Subscribers designated by Grantee as payment of its franchise fee obligation, or any taxes imposed on the services furnished by Grantee herein which are imposed directly on the Subscriber or user by the local or any governmental unit and collected by Grantee on behalf of that governmental unit.
7. "Person" means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for-profit.
8. "Signal" means any transmission of radio frequency energy or of optional information.
9. "Street" means the surface of and the space above and below any public street, public road, public highway, public freeway, public lane, public path, public way, public alley, public court, public sidewalk, public boulevard, public parkway, public drive and any public easement or right-of-way now or hereafter held by the Grantor which shall entitle Grantee to the use thereof for the purpose of installing or transmitting over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be ordinarily necessary and pertinent to a System.
10. "Subscriber" means any person or entity who lawfully subscribes to any Cable Service whether or not a fee is paid for such Cable Service.

#### SECTION 4. GRANT OF AUTHORITY AND GENERAL PROVISIONS

1. Grant of Franchise. The Grantor hereby grants to Grantee the non-exclusive right to construct, operate and maintain in, on, along, across, above, over and under the streets, alleys, lanes and public places of the Grantor, the poles, wires, cables, underground conduits, manholes and other facilities necessary for the maintenance and operation of a Cable Communications System throughout the entire territorial area of the Grantor to provide Cable Service and other communications and information services.
2. Level Playing Field. The Grantor agrees that any grant of additional franchises or other authorizations including OVS authorizations by the Grantor to any other entity to provide video or other services similar to those provided by Grantee pursuant to this agreement and over which the Grantor has regulatory authority shall require that service be provided for the same territorial area of the Grantor as required by this agreement and shall not be on terms and conditions (including without limitation, the franchise fee obligations) more favorable or less burdensome to the Grantee of any such additional franchise than those which are set forth herein.

In any renewal of this franchise, the Grantor, should it seek to impose increased obligations upon Grantee, must take into account any additional franchise(s) or authorizations previously granted and find that the proposed increase obligations in the renewal are not more burdensome and/or less favorable than those contained in the additional franchise(s) or authorizations.

3. Acceptance: Effective Date: Franchise Term. The Franchise granted herein will take effect and be in full force from such date of acceptance by Grantee recorded on the signature page of this Ordinance. The franchise shall continue in full force and effect until it expires on November 14, 2018. This Franchise will be automatically extended for an additional term of five (5) years unless either party notifies the other in writing of its desire to terminate this Agreement at least one year before the commencement of the five year extension.
4. Area Covered. This Franchise is granted for the entire territorial limits of the Grantor ("Franchise Area"). Grantee upon request will make service available to all residences within the territorial limits of the Grantor and any annexed territory in the event that 1) such existing or annexed territory has a density of at least thirty (30) homes per linear strand mile of cable as measured from existing cable system plant (excluding homes subscribing to direct satellite); 2) any such resident requesting service can be provided with service by a standard installation which will be no more than one hundred fifty (150) feet from the existing distribution system ("Standard Installation") and 3) such existing or annexed territory is not being served by a cable television system operator other than Grantee or its affiliates, an open video system or a satellite master antenna television system.

#### SECTION 5. CABLE COMMUNICATIONS SYSTEM.

1. System Maintenance or Upgrade. Grantee agrees to comply with the terms set forth in this Franchise governing construction and technical requirements for maintenance of the Cable System, in addition to any other requirements specified by this franchise and any applicable law which is generally applicable to all entities involved in construction in the Grantor's rights of way.
2. Technical Standards. The System shall be designed, constructed and operated so as to meet those technical standards promulgated by the Federal Communications Commission relating to Cable Systems contained in subpart K of part 76 of the FCC's rules and regulations as may, from time to time be amended.
3. Emergency Alert System. Grantee will comply with the FCC's Emergency Alert System requirements throughout the Term of this Franchise.

#### SECTION 6. CONSTRUCTION PROVISIONS.

1. Construction Standards
  - a. All installation of electronic equipment shall be durable and installed in accordance with the provisions of the National Electrical and Safety Code and National Electrical Code as amended.
  - b. Antennas and their supporting structures (tower) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other generally applicable state or local laws, codes and regulations.

- c. Grantee's plant and equipment, including, but not limited to, the antenna site, head end and distribution system shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices.
  - d. Grantee shall employ ordinary care and shall install and maintain in use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.
2. Construction Codes and Permits. Grantee shall obtain all legally required permits before commencing any work requiring a permit, including the opening or disturbance of any street, or public property or public easement within the community. Grantee shall strictly adhere to all building and zoning codes currently or hereafter applicable to construction, operation or maintenance of the system in the community, provided such codes apply to all other similarly situated entities.
3. Repair of Streets and Property. Any and all streets or public property or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the system shall be repaired by Grantee, at its expense, to a condition as good as that prevailing prior to Grantee's construction.
4. Use of Existing Poles. Grantee shall not erect, for any reason, any pole on or along any street in an existing aerial utility system without the advance written approval of the Grantor, which approval shall not be unreasonably withheld. Grantee shall exercise its best efforts to negotiate the lease of pole space and facilities from the existing pole owners for all aerial construction.
5. Underground of Cable. Cable plant shall be installed underground at Grantee's expense where all existing telephone and electrical utilities are already underground. Grantee shall place cable underground in newly platted areas in concert with both the telephone and electrical utilities, to the extent Grantee is notified of such placement. In the event that any telephone or electric utilities are reimbursed by the Grantor or any agency thereof for the placement of cable underground or the movement of cable. Grantee shall be reimbursed upon the same terms and conditions as any telephone, electric or other utilities.
6. Reservation of Street Rights.
  - a. Nothing in this Franchise shall be construed to prevent the Grantor from constructing, maintaining, repairing or relocating sewers; grading, paving, maintaining, repairing, relocating and/or altering any street: constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.
  - b. All such work shall be done, insofar as practicable, in such a manner as not to obstruct, injure or prevent the free use and operation of the poles, wires, conduits, conductors, pipes or appurtenances of Grantee.
  - c. If any such property of Grantee shall interfere with the construction or relocation, maintenance or repair of any street or public improvement, whether it be construction, repair, maintenance, removal or relocation of a sewer, public sidewalk, or water main, street or any other improvement, thirty (30) days notice shall be given to Grantee by the Grantor and all such poles, wires, conduits or other

appliances and facilities shall be removed or replaced by Grantee so that the same shall not interfere with the said public work of the Grantor, and such removal or replacement shall be at the expense of Grantee herein. Should, however, any utility company or other entity be reimbursed for relocation of its facilities as part of the same work that requires Grantee to remove its facilities, Grantee shall be reimbursed upon the same terms and conditions as such utilities or other entities.

7. Reasonable Care. Nothing contained in this Franchise shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities while performing any work connected with grading, regarding or changing the line of any street or public place or with the construction or reconstruction of any sewer or water system.
8. Trimming of Trees. Grantee shall have the authority to trim trees upon and hanging over streets, alleys, sidewalks, and public places of the Grantor so as to prevent the branches of such trees from coming in contact with the wires and cables of Grantee; provided, however, all trimming shall be done at the expense of Grantee.
9. Movement of Facilities. In the event it is necessary temporarily to move or remove any of Grantee's wires, cables, poles, or other facilities placed pursuant to this Franchise, in order to lawfully move a large object, vehicle, building or other structure over the streets of the Grantor, upon two (2) weeks notice by the Grantor to Grantee, Grantee shall move at the expense of the person requesting the temporary removal, such of his facilities as may be required to facilitate such movements. Grantee reserves its rights to request that such expense be paid in advance. Any service disruption provisions of this Franchise shall not apply in the event that the removal of Grantee's wires, cables, poles or other facilities results in temporary service disruption.

#### SECTION 7. SERVICE PROVISIONS.

Programming Decisions. Grantee will provide broad categories of programming services in accordance with the Cable Act.

#### SECTION 8. CONSUMER PROTECTION AND RIGHTS OF INDIVIDUALS.

1. Subscriber Complaint Practices.
  - a. Grantee shall maintain an office which shall be open during normal business hours and shall maintain a publicly listed toll-free number. Grantee shall maintain adequate telephone lines and personnel to respond in a timely manner to schedule service calls and answer Subscriber complaints or inquiries. Grantee shall follow all applicable federal and state regulations in responding to complaints by customers. A complaint as used in this Franchise will mean notice by a Subscriber of a billing dispute or problem with picture quality which is not resolved during or subsequent to the initial telephone or service call.

- b. Grantee shall render efficient cable service, make repairs promptly and interrupt service only for good cause and for the shortest time possible.
2. Parental Control Option. Grantee shall provide parental control devices, at reasonable cost, to Subscribers who wish to be able to prevent certain Cable Services from entering the Subscriber's home.
3. Rights of Individuals Protected.
  - a. Discriminatory Practices Prohibited. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers on the basis of race, color, religion, national origin, sex, or age. Grantee shall comply at all times with all other applicable federal and state laws relating to nondiscrimination.
  - b. Subscriber Privacy. Grantee shall comply with all privacy provisions of the Cable Act, as amended.

#### SECTION 9. FRANCHISE FEE.

1. Grantee shall pay to the Grantor a franchise fee equal to one percent (1%) of the Grantee's Gross Revenues, as herein defined.
2. Payments due the Grantor under this provision shall be computed annually and shall be due and payable annually.

#### SECTION 10. INSURANCE.

Grantee will maintain in full force and effect for the Term of the Franchise, at Grantee's expense, a comprehensive liability insurance policy with the Grantor as an additional insured, written by a company authorized to do business in the State in which the cable system is located, or will provide self-insurance reasonably satisfactory to the Grantor protecting the Grantor against liability for loss, personal injury and property damage occasioned by the operation of the Cable System by Grantee. Such insurance will be maintained in an amount not less than \$500,000.00. The Grantee will also maintain Worker's Compensation coverage throughout the term of this franchise as required by law. Evidence in the form of a certificate of insurance or such self-insurance will be provided to the Grantor upon request.

#### SECTION 11. INDEMNIFICATION.

1. Grantee will indemnify the Grantor and will pay all damages and penalties which the Grantor may legally be required to pay which result from any negligence by Grantee in the operation of the Cable Communications System throughout the territorial area of the Grantor. The Grantor shall give Grantee timely written notice of the making of any claim or of the commencement of any action, suit or other proceeding covered by the indemnity in this Section. In the event any such claim arises, the Grantor shall tender the defense thereof to Grantee and Grantee shall have the right to defend, settle or compromise any claims arising hereunder and the Grantor shall cooperate fully herein. If Grantor determines in good faith that its interests cannot be represented by Grantee, Grantee shall be excused from any obligation to represent Grantor.

2. Grantee will not be required to indemnify the Grantor for the negligent acts of the Grantor or its officials, boards, commissions, agents or employees. Further, the Grantor will indemnify and hold Grantee harmless from any claims or causes of action arising from any negligent acts by the Grantor, its officials, boards, commissions, agents or employees.

## SECTION 12. VIOLATIONS AND REVOCATION.

1. Franchise Violations. Whenever the Grantor believes that Grantee has allegedly violated one (1) or more terms, conditions or provisions of this Franchise, a written notice shall be given to Grantee. The written notice shall describe in reasonable detail the alleged violation so as to afford Grantee an opportunity to remedy the violation. Grantee shall have thirty (30) days subsequent to receipt of the notice in which to either correct the violation or, if the violation cannot be corrected within the thirty (30) day period, to have commenced and be diligently pursuing corrective action. Grantee may, within ten (10) business days of receipt of notice, notify the Grantor that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by Grantee to the Grantor shall specify with particularity the matters disputed by Grantee and shall stay the running of the above-described time.
  - a. The Grantor shall hear Grantee's dispute at a regularly or specially scheduled meeting. Grantee shall have the right to subpoena and cross-examine witnesses. The Grantor shall determine if Grantee has committed a violation and shall make written findings of fact relative to its determination. If a violation is found, Grantee may petition for reconsideration.
  - b. If any hearing the dispute the claim is upheld by the Grantor, Grantee shall have thirty (30) business days from such a determination to remedy the violation or failure.

The time for Grantee to correct any alleged violation shall be extended by the Grantor if the necessary action to correct the alleged violation is of such a nature or character to require more than thirty (30) days within which to perform provided Grantee commences the corrective action within the thirty (30) day period and thereafter uses reasonable diligence to correct the violation. Notwithstanding the above provisions, Grantee does not waive any of its rights under federal law.

2. Franchise Revocation. In addition to all other rights which the Grantor has pursuant to law or equity, the Grantor reserves the right to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto in accordance with the following procedures and applicable federal law, in the event that:
  - a. Grantee become insolvent, unable or unwilling to pay its debts, or is adjudged as bankrupt and Grantee's creditors or Trustee in Bankruptcy do not agree to fulfill and be bound by all requirements of this Franchise; or
  - b. Grantee violates a material provision of this Franchise after being notified of such violation and being given time to cure or refute the alleged violation in accordance with Section 12(1).



3. Revocation Procedures. In the event that the Grantor determines as set forth above that Grantee has violated any material provision of the Franchise, the Grantor may make a written demand on Grantee that it remedy such violation and that continued violation may be cause for revocation. If the violation, breach, failure, refusal, or neglect is not remedied within thirty (30) days following such demand or such other period as is reasonable, the Grantor shall determine whether or not such violation, breach, failure, refusal or neglect by Grantee is due to acts of God or other causes which result from circumstances beyond Grantee's control. Such determination shall not unreasonably be withheld.
- a. A public hearing shall be held and Grantee shall be provided with an opportunity to be heard upon fourteen (14) days written notice to Grantee of the time and the place of the hearing. The causes for pending revocation and the reasons alleged to constitute such cause shall be recited in the notice. Said notice shall affirmatively recite the causes that need to be shown by the Grantor to support a revocation.
  - b. If notice is given and, at Grantee's option, after a full public proceeding is held, the Grantor determines there is a violation, breach, failure, refusal or neglect by Grantee which is not an event of force majeure, the Grantor shall direct Grantee to correct or remedy the same within such reasonable additional time, in such manner and upon such reasonable terms and conditions as Grantor may direct.
  - c. If after a public hearing it is determined that Grantee's performance of any of the terms, conditions, obligations, or requirements of Franchise was prevented or impaired due to any cause beyond its reasonable control or not reasonably foreseeable, such inability to perform shall be deemed to be excused and no penalties or sanctions shall be imposed as a result thereof, provided Grantee has notified Grantor in writing within 30 (30) days of its discovery of the occurrence of such an event. Such causes beyond Grantee's reasonable control or not reasonably foreseeable shall include, but shall not be limited to, acts of God, civil emergencies and labor strikes.
  - d. If, after notice is given and, at Grantee's option, a full public proceeding is held, the Grantor determines there was a violation, breach, failure, refusal or neglect, which is not an event of force majeure, then the Grantor may declare, by resolution, the Franchise revoked and canceled and of no further force and effect unless there is compliance within such period as Grantor may fix, such period not to be less than thirty (30) days.
  - e. If the Grantor, after notice is given and, at Grantee's option, a full public proceeding is held and appeal is exhausted, declares the Franchise breached, the parties may pursue their remedies pursuant to Franchise or any other remedy, legal or equitable. Grantee may continue to operate the system until all legal appeals procedures have been exhausted.
  - f. Notwithstanding the above provisions, Grantee does not waive any of its rights under federal law or regulation.

### SECTION 13. FORECLOSURE RECEIVERSHIP AND ABANDONMENT.

1. Foreclosure. Upon the foreclosure or other judicial sale of the system, Grantee shall notify the Grantor of such fact and such notification shall be treated as a notification that a change in control of Grantee has taken place.
2. Receivership. The Grantor shall have the right to cancel this Franchise subject to any applicable provisions of state law, including the Bankruptcy Act, one hundred and twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have vacated prior to the expiration of said one hundred and twenty (120) days, or unless:
  - a. Within one hundred and twenty (120) days after his election or appointment, such receiver or trustee shall have complied with all material provisions of this Franchise and remedied all defaults there under; and
  - b. Such receiver or trustee, within said one hundred and twenty (120) days, shall have executed an agreement, duly approved by the Court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise.

### SECTION 14. REMOVAL, TRANSFER AND PURCHASE.

1. Removal After Revocation.
  - a. Upon revocation of the Franchise, as provided for herein, the Grantee shall proceed to remove, at Grantee's expense, all or any portion of the System from all streets and public property within the territorial boundaries of the Grantor. In so removing the System, Grantee shall be responsible for any repairs or damages caused by its removal and shall maintain insurance during the term of removal.
  - b. If Grantee has failed to commence removal of the system, or such part thereof as was designated within thirty (30) days after written notice of the Grantor's demand for removal is given or it Grantee has failed to complete such removal within one (1) year after written notice of the Grantor's demand for removal is given, the Grantee may abandon such System to the Grantor.
2. Franchise Binding. This Franchise shall be binding on successors, assigns, and transferees.

### SECTION 15. MISCELLANEOUS PROVISIONS.

1. Compliance with Laws. Grantee and the Grantor shall conform to all state and federal laws and rules regarding cable television as they become effective, unless otherwise stated. Grantee shall also conform during the entire term of the Franchise with all generally applicable ordinances, resolutions, rules and regulations heretofore or hereafter adopted pursuant to the Grantor's lawful police powers that do not materially impair or abrogate any of the Grantee's contractual rights under this Franchise and that are not preempted by state or federal law.

2. Compliance with Federal, State and Local Laws. If any term, condition or provision of this Franchise or the application thereof to any person or circumstances shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition or provision to persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Franchise and all the terms, provisions and conditions hereof shall, in all other respects, continue to be effective and to be complied with. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision which had been held invalid or modified is no longer in conflict with the law, rules and regulations then in effect, said provision shall thereupon return to full force and effect and shall thereafter be binding on Grantee and the Grantor.
3. Administration of Franchise. This Franchise is a contract and except as to those changes which are the result of the Grantor's exercise of its police power in management of its rights of way and its generally applicable regulation of commerce, neither party may take any unilateral action which materially changes the explicit mutual promises in this contract. Any changes to the Franchise must be made in writing, signed by Grantee and Grantor.
4. Franchise Requirement. In accordance with applicable law, from and after the acceptance of the Franchise, the Grantor shall not allow and it shall be unlawful for any person to construct, install or maintain within any street within the territorial boundaries of the Grantor, or within any other public property of the Grantor, or within any privately owned area within the territorial limits of the Grantor which has not yet become a public street but is designated or delineated as a proposed public street on any tentative subdivision map approved by the Grantor, or the Grantor's official map or the Grantor's major thoroughfare plan, any equipment or facilities for distributing any television signals or radio signals through a system, unless a Franchise authorizing such use of such street or property or areas has first been obtained.
5. Reservation of Rights. Acceptance of the terms and conditions of this franchise will not constitute, or be deemed to constitute, a waiver, either expressly or impliedly, by Grantee of any constitutional or legal right which it may have or may be determined to have, either by subsequent legislation or court decisions. The Grantor hereby acknowledges that Grantor reserves all of its rights under applicable Federal and State Constitution laws and regulations.
6. Force Majeure. With respect to any provision of this Franchise Ordinance, the violation or noncompliance with which could result in the imposition of a financial penalty, forfeiture or other sanction upon Grantee, such violation or noncompliance will be excused where such violation or noncompliance is the result of an Act of God, war, civil disturbance, strike or other labor unrest, or any event beyond Grantee's reasonable control or not reasonably foreseeable.
7. Captions. The paragraph captions and headings in this Franchise are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this Franchise.
8. Calculation of Time. Where the performance or doing of any act, duty, matter, payment or thing is required hereunder and the period of time or duration for the performance thereof is prescribed and fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period or duration of time. When the last day

of the period falls on Saturday, Sunday or a legal holiday, that day shall be omitted from the computation.

9. Written Notice. All notices, reports or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to the person designated below, or when five (5) days have elapsed after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, or on the next business day if sent by express mail or overnight air courier addressed to the party to which notice is being given, as follows:

If to Grantor: Town of Sandy Creek  
P.O. Box 1438  
Leland, NC 28451

If to Grantee: Adelphia Communications Corporation  
Attn: Legal Department  
One North Main Street  
Coudersport, PA 16915

With a copy to: ACC Cable Communications FL-VA, LLC  
General Manager  
1920 West Bobo Newsome Highway  
Hartsville, SC 29550

Such addresses and phone numbers may be changed by either party upon notice to the other party given as provided in this section.

10. Entire Agreement. This Franchise contains the entire understanding between the parties with respect to the subject matter hereof and supersedes all other prior understandings and agreements oral or written. This agreement may not be modified except in writing signed by both parties.

#### SECTION 16. PUBLICATION.

This Franchise shall be signed by the Mayor and attested by the Clerk. The Franchise shall be published in accordance with the requirements of Grantor and state law and shall take effect upon acceptance by Grantee as set forth in Section 4 thereof.

SECTION 17. ACCEPTANCE.

Grantor by virtue of the signatures on said Ordinance and Grantee by virtue of the signatures set forth below, agree to be legally bound by all provisions and conditions set forth in this ordinance, together forming a mutually binding contractual agreement which cannot be amended without a writing executed by both parties.

Passed and adopted this 14<sup>th</sup> day of January, 2002.

ATTEST:

By: \_\_\_\_\_  
Clerk, Town of Sandy Creek

By: \_\_\_\_\_  
(Grantor Official's Name)

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Accepted by ACC Cable Communications FL-VA, LLC  
d/b/a Adelphia Cable Communications

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

# **TOWN OF SANDY CREEK FLOOD DAMAGE PREVENTION ORDINANCE**

## **Non-Coastal Regular Phase**

### **ARTICLE 1.     STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.**

#### **SECTION A.     STATUTORY AUTHORIZATION.**

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 7, 9, and 11 of Chapter 160D; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Board of Directors of the Town of Sandy Creek, North Carolina, does ordain as follows:

#### **SECTION B.     FINDINGS OF FACT.**

- (1) The flood prone areas within the jurisdiction of Town of Sandy Creek are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

#### **SECTION C.     STATEMENT OF PURPOSE.**

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

#### **SECTION D.     OBJECTIVES.**

The objectives of this ordinance are to:

- (1) Protect human life, safety, and health;

## FLOOD DAMAGE PREVENTION ORDINANCE

- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business losses and interruptions;
- (5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (6) Minimize damage to private and public property due to flooding;
- (7) Make flood insurance available to the community through the National Flood Insurance Program;
- (8) Maintain the natural and beneficial functions of floodplains;
- (9) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (10) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

### ARTICLE 2. DEFINITIONS.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

"Accessory Structure (Appurtenant Structure)" means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports, and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms and may or may not be located on the same parcel as the farm dwelling or shop building.

"Addition (to an existing building)" means an extension or increase in the floor area or height of a building or structure.

"Alteration of a watercourse" means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

"Area of Shallow Flooding" means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of Special Flood Hazard" see "Special Flood Hazard Area (SFHA)".

"Base Flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation (BFE)" means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure".

"Chemical Storage Facility" means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

“Design Flood”: See “Regulatory Flood Protection Elevation.”

“Development” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

“Development Activity” means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

“Digital Flood Insurance Rate Map (DFIRM)” means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Disposal” means, as defined in N.C.G.S. 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

“Elevated Building” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before July 1<sup>st</sup>, 2019.

“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before July 1<sup>st</sup>, 2019 initial effective date of the floodplain management regulations adopted by the community.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters; and/or
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

“Flood Prone Area” see “Floodplain”.

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.



## FLOOD DAMAGE PREVENTION ORDINANCE

**"Floodplain"** means any land area susceptible to being inundated by water from any source.

**"Floodplain Administrator"** is the individual appointed to administer and enforce the floodplain management regulations.

**"Floodplain Development Permit"** means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

**"Floodplain Management"** means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**"Floodplain Management Regulations"** means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

**"Floodproofing"** means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

**"Flood-resistant material"** means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

**"Floodway"** means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

**"Floodway encroachment analysis"** means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

**"Freeboard"** means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the "Regulatory Flood Protection Elevation".

**"Functionally Dependent Facility"** means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

**"Hazardous Waste Management Facility"** means, as defined in N.C.G.S. §130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

**"Highest Adjacent Grade (HAG)"** means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

**"Historic Structure"** means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

- (b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or
- (d) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program."

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

"Letter of Map Change (LOMC)" means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

"Light Duty Truck" means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

"Lowest Adjacent Grade (LAG)" means the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Market Value" means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

## FLOOD DAMAGE PREVENTION ORDINANCE

"New Construction" means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

"Non-Encroachment Area (NEA)" means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

"Post-FIRM" means construction or other development for which the "start of construction" occurred on or after June 2nd, 2006 the effective date of the initial Flood Insurance Rate Map.

"Pre-FIRM" means construction or other development for which the "start of construction" occurred before June 2nd, 2006 the effective date of the initial Flood Insurance Rate Map.

"Principally Above Ground" means that at least 51% of the actual cash value of the structure is above ground.

"Public Safety" and/or "Nuisance" means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational Vehicle (RV)" means a vehicle, which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
- (e) Is fully licensed and ready for highway use.

"Reference Level" is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99.

"Regulatory Flood Protection Elevation" means the "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet which is the state recommended minimum. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two feet which is the state recommended minimum feet above the highest adjacent grade.

"Remedy a Violation" means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Salvage Yard" means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

"Solid Waste Disposal Facility" means any facility involved in the disposal of solid waste, as defined in N.C.G.S. §130A-290(a)(35).

"Solid Waste Disposal Site" means, as defined in N.C.G.S. §130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

"Special Flood Hazard Area (SFHA)" means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued provided the

actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

"Substantial Damage" means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. See definition of "substantial improvement".

"Substantial Improvement" means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Article 4 Section E of this ordinance.

"Technical Bulletin and Technical Fact Sheet" means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

"Temperature Controlled" means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

"Variance" is a grant of relief from the requirements of this ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation (WSE)" means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

"Watercourse" means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

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### ARTICLE 3. GENERAL PROVISIONS.

#### SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of the Town of Sandy Creek.

#### SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated 12/6/2019 for Brunswick County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance, and all revisions thereto.

#### SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Article 3, Section B of this ordinance.

#### SECTION D. COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

#### SECTION E. ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### SECTION F. INTERPRETATION.

In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under State statutes.

#### SECTION G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Town of Sandy Creek or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

#### SECTION H. PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to N.C.G.S. §143-215.58. Any person who violates this ordinance or fails to comply with any of its

requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Town of Sandy Creek from taking such other lawful action as is necessary to prevent or remedy any violation.

**ARTICLE 4.     ADMINISTRATION.**

**SECTION A.     DESIGNATION OF FLOODPLAIN ADMINISTRATOR.**

The Mayor, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

**SECTION B.     FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.**

- (1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
    - (i) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
    - (ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
    - (iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;
    - (iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
    - (v) The Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C; or Article 5, Section D;
    - (vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
    - (vii) The certification of the plot plan by a registered land surveyor or professional engineer.
  - (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
    - (i) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
    - (ii) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
    - (iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
  - (c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan,

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and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
  - (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
  - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(d) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
- (e) Usage details of any enclosed areas below the lowest floor.
- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
- (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Article 5, Section B, subsections (6) and (7) of this ordinance are met.
- (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:

- (a) A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article 3, Section B.
- (c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
- (d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
- (e) All certification submittal requirements with timelines.
- (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Article 5, Section F have been met.
- (g) The flood openings requirements, if in Zones A, AE, AH, AO, A99.
- (h) Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).
- (i) A statement, that all materials below BFE/RFPE must be flood resistant materials.

(3) **Certification Requirements.**

- (a) Elevation Certificates

(i) *An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new*

construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

- (ii) *An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.*
- (iii) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. *The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable.*

(b) Floodproofing Certificate

- (i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (ii) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.



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- (c) If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article 5, Section B (3)(b).
  - (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
  - (e) Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
    - (i) Recreational Vehicles meeting requirements of Article 5, Section B (6)(a);
    - (ii) Temporary Structures meeting requirements of Article 5, Section B (7); and
    - (iii) Accessory Structures that are 150 square feet or less or \$3,000.00 (cost of structure) or less and meeting requirements of Article 5, Section B (8).
- (4) **Determinations for existing buildings and structures.**

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

### **SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.**

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article 4, Section B(3).
- (7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article 4, Section B(3).
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Article 4, Section B(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Article 4, Section B(3) and Article 5, Section B(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When BFE data has not been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Article 5, Section D(2)(c), in order to administer the provisions of this ordinance.
- (12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.
- (13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
- (14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (17) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for

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refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

- (18) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (19) Follow through with corrective procedures of Article 4, Section D.
- (20) Review, provide input, and make recommendations for variance requests.
- (21) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

### SECTION D. CORRECTIVE PROCEDURES.

- (1) Violations to be corrected: When the Floodplain Administrator finds violations of applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
  - (a) That the building or property is in violation of the floodplain management regulations;
  - (b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
  - (c) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than least 180 calendar days or less. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to N.C.G.S. § 143-215.58 and shall be punished at the discretion of the court.

**SECTION E. VARIANCE PROCEDURES.**

- (1) The Board of Adjustment as established by the Town of Sandy Creek, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
  - (a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
  - (b) Functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E (9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
  - (c) Any other type of development provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
  - (a) The danger that materials may be swept onto other lands to the injury of others;
  - (b) The danger to life and property due to flooding or erosion damage;
  - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (d) The importance of the services provided by the proposed facility to the community;
  - (e) The necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;
  - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (g) The compatibility of the proposed use with existing and anticipated development;
  - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life

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and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
- (9) Conditions for Variances:
  - (a) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
  - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
  - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (d) Variances shall only be issued prior to development permit approval.
  - (e) Variances shall only be issued upon:
    - (i) A showing of good and sufficient cause;
    - (ii) A determination that failure to grant the variance would result in exceptional hardship; and
    - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
  - (a) The use serves a critical need in the community.
  - (b) No feasible location exists for the use outside the Special Flood Hazard Area.
  - (c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
  - (d) The use complies with all other applicable federal, state and local laws.
  - (e) The **Town of Sandy Creek** has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

### ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

#### SECTION A. GENERAL STANDARDS.

In all Special Flood Hazard Areas the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.
  - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
  - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Article 4, Section E(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Article 4, Section B(3).
- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (13) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (15) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood

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elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

### SECTION B. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Article 3, Section B, or Article 5, Section D, the following provisions, in addition to the provisions of Article 5, Section A, are required:

- (1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
- (2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Article 5, Section G. 2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B(3), along with the operational plan and the inspection and maintenance plan.
- (3) Manufactured Homes.
  - (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
  - (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to N.C.G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
  - (c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B(4).
  - (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.
- (4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
  - (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
  - (b) Shall not be temperature-controlled or conditioned;
  - (c) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and

- (d) Shall include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
- (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
  - (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
  - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
  - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
  - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
  - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) Additions/Improvements.

- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
  - (i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
  - (ii) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
- (b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
- (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
  - (i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
  - (ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
  - (i) Any project for improvement of a building required to correct existing health, sanitary or safety code



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violations identified by the building official and that are the minimum necessary to assume safe living conditions.

- (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(6) Recreational Vehicles. Recreational vehicles shall either:

(a) Temporary Placement

- (i) Be on site for fewer than one-hundred and eighty (180) consecutive days; or
- (ii) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)

- (b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.

(7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- (a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
- (b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
- (c) The time frame prior to the event at which a structure will be removed (i.e., minimum of seventy two (72) hours before landfall of a hurricane or immediately upon flood warning notification);
- (d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
- (e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- (b) Accessory structures shall not be temperature-controlled;
- (c) Accessory structures shall be designed to have low flood damage potential;
- (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (e) Accessory structures shall be firmly anchored in accordance with the provisions of Article 5, Section A(1);
- (f) All service facilities such as electrical shall be installed in accordance with the provisions of Article 5, Section A(4); and
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Article 5, Section B(4)(d).

An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3,000.00 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Article 5, Section B (2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B(3).

(9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
- (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
- (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Article 5, Section B (2) of this Article shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
- (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
  - (i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
  - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(10) Other Development.

- (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.
- (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.
- (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.

SECTION C. RESERVED.

SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Article 5, Section A, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided

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demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- (2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
- (a) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 5, Sections A and B.
  - (b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Article 5, Sections B and F.
  - (c) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Article 3, Section B and utilized in implementing this ordinance.
  - (d) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

### SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of Article 5, Sections A and B; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

### SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
  - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
  - (b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- (2) If Article 5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction

provisions of this ordinance.

- (3) Manufactured homes may be permitted provided the following provisions are met:
  - (a) The anchoring and the elevation standards of Article 5, Section B(3); and
  - (b) The encroachment standards of Article 5, Section F(1).

#### **SECTION G.      STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).**

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least a minimum of two (2) feet and four (4) where depth is not provided feet above the highest adjacent grade if no depth number is specified.
- (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article 5, Section G(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Article 4, Section B(3) and Article 5, Section B(2).
- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

#### **SECTION H.      STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH).**

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

#### **ARTICLE 6.      LEGAL STATUS PROVISIONS.**

##### **SECTION A.      EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.**

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted 12/3/2019 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Town of Sandy Creek enacted on 12/3/2019, as amended, which are not reenacted herein are repealed.

*Municipal:* The date of the initial Flood Damage Prevention Ordinance for Brunswick County April 1, 1985.

##### **SECTION B.      EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.**

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or

## FLOOD DAMAGE PREVENTION ORDINANCE

any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

### SECTION C. SEVERABILITY.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

### SECTION D. EFFECTIVE DATE.

This ordinance shall become effective upon adoption.

### SECTION E. ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the council of Town of Sandy Creek, North Carolina, on the 12<sup>th</sup> day of July, 2021.

WITNESS my hand and the official seal of Mayor, Glenn Marshall, this the 12<sup>th</sup> day of July, 2021.

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(signature)